This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Author and Title

Wisconsin. Laws, statutes, etc.
Wisconsin session laws.

Call Number	Volume	Copy
KFW 2425 A223	1883 v.2	

THIS BOOK DOES NOT CIRCULATE
OUTSIDE THE BUILDING

NAME	LOCATION

Wisconsin. Laws, statutes, etc.
Wisconsin session laws.

KFW 2425 A223 vol 1883 v.2

THE

LAWS OF WISCONSIN,

PASSED AT THE

BIENNIAL SESSION OF THE LEGISLATURE OF 1883,

RELATING TO

CITY CHARTERS AND THEIR AMENDMENTS,

VOLUME II.

PUBLISHED BY AUTHORITY.

MADISON, WIS.,
DEMOCRAT PRINTING CO., STATE PRINTERS.
1883.

2 6 1970

LAWS OF WISCONSIN.

[No. 44, S.] [Published February 14, 1883.]

CHAPTER 2.

AN ACT relating to the charter of the city of Green Bay, and amendatory of chapter 169 of the laws of 1882.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 1, of chapter 2, of chapter 169, of the laws of 1882, is amended so as to read as follows: Section 1. The elective officers of said city shall be a mayor, three aldermen from each ward, a city treasurer, city clerk, and three justices for the city at large; one of said justices shall be elected as, and called police justice. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council, except the police force, which shall be appointed by the mayor and confirmed by the council. Officers of the city.

SECTION 2. Section 5, of chapter 3, of chapter 169, laws of 1882, is amended so as to read as follows: Section 5. The common council shall, at their first meeting for organization in each year after the annual election, choose by ballot a city attorney. The city attorney shall conduct all the law business of the corporation. He shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the council or any of its committees. He shall keep a docket of all cases to which the city may be a party, in any court of record, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to the inspection of the mayor, or any committee of the common council. It shall also be the duty of the city attorney to draft all general ordinances, all bonds, contracts, leases, conveyances and other instruments of writing that may be required by the business of the city, and to perform such other duties as may be prescribed by the charter and Relating to city attorney and his duties.

ordinances. He shall receive an annual salary to be fixed by the council.

Relating to city assessor and his duties.

SECTION 3. Section 9, of chapter 3, of chapter 169, laws of 1882, is hereby amended so as to read as follows: Section 9. The common council shall, at their first regular meeting held after the passage and publication of this act, elect by ballot one assessor, who shall hold his office till the first Monday of September, 1883. The common council shall, on the first Monday of September in each year, or within twenty days thereafter, elect one assessor who shall hold his office for the term of one year. The assessor so elected shall assess all the taxable property of the city of Green Bay, and shall complete and return his assessment roll on the day fixed by the general law of this state. The assessor shall receive for his services such compensation as the common council shall determine, not exceeding the sum of five hundred dollars for the term for which he is elected.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved February 13, 1883.

[No. 66, S.] [Published February 23, 1883.]

CHAPTER 4.

AN ACT to incorporate the city of Black River Falls.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER I.

Corporate name.

SECTION 1. From and after the fifth day of March, A. D. 1883, all that district of country in the county of Jackson, and state of Wisconsin, hereinafter described, shall be and remain a city by the name of Black River Falls, and they who now or may hereafter inhabit said district shall be a municipal corporation by the name of the city of Black River Falls, and shall have the general powers possessed by municipal corporations at common law and under the revised statutes, and in addition thereto shall have and possess the powers hereinafter granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with,

suing or being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

CHAPTER II.

BOUNDARIES AND WARDS.

Boundaries.

SECTION 1. All of section fifteen (15), the east half (½) of the east half (½) of section sixteen (16), the east (½) half of the northeast quarter (¼) of section twenty-one (21), all that part of section twenty-two (22) lying and being north and west of the east and south bank of Black river, and all that portion of section fourteen (14), lying north and west of the south and east banks of Black river, all in township number twenty-one (21) north, of range number four (4) west, in Jackson county, Wisconsin, shall be included within and constitute the territory comprising the city of Black River Falls.

Ward boundaries.

SECTION 2. The said city shall be divided into four (4) wards, viz: The east half (½) of the northeast quarter (¼) and the northeast quarter (¼) of the southeast quarter (¼) of section sixteen (16); and the northwest quarter (¼) and the north half (½) of the southwest quarter (¼) and all that portion of the south half (½) of the southwest quarter (¼) of section fifteen (15), town twenty-one (21), range four (4) west, in Jackson county, Wisconsin, lying north of Jefferson street in D. J. Spaulding's addition to Black River Falls, shall constitute and be the first ward. The southeast quarter (¼) of the southeast quarter (¼) of section sixteen (16); the northeast quarter (¼) of the northeast quarter (¼) of section twenty-one (21); and all that portion of section fifteen (15) south of Jefferson street aforesaid and west of what is now known as J street, continued south to the section line shall constitute the second ward. The southeast quarter (¼) of the northeast quarter (¼) of section twenty-one (21); and all that portion of section twenty-two (22) lying north and west of the south and east banks of Black river, and all that portion of section fifteen (15) lying west of Black river, and south of Main street, and east of J street, continued south to the section line, shall constitute the third ward. All the rest of the territory in said city shall constitute the fourth

ward. But the common council shall have power to change said lines of division as they may deem convenient and proper, but said boundary lines of said wards shall not be changed or altered, except by a three-fourths vote of the common council.

Corporate authority, in whom vested.

SECTION 3. The corporate authority of said city shall be vested in one municipal officer, styled the mayor, and in one board of aldermen, consisting of one member from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as are hereafter mentioned, or may be created under this act.

ELECTIONS.

Regarding elections.

SECTION 4. The annual election for city and ward officers shall be held on the first Tuesday after the first Monday of March in each year, at such place or places as the common council shall designate and provide, and the polls shall be kept open from nine o'clock A. M. until twelve o'clock M., and from one o'clock P. M. until five o'clock P. M. The city clerk shall give at least ten days' notice of such election, stating time and place or places of holding the same, the officers to be elected thereat and also of any special action to be taken or asked at such meeting, by causing the same to be printed in one or more newspapers published in said city of Black River Falls, and by posting the same in one or more public places in each ward of said city, and the city clerk shall file copies of the newspaper containing such notice, together with his affidavit of the publishing and posting of the same, but a failure to give the notice as above specified shall not invalidate the election.

Elective officers.

SECTION 5. The elective officers of said city shall be a mayor, clerk, treasurer, and assessor, two justices of the peace and two constables, elected by, and for the city at large; and one alderman from each ward, who shall represent his ward as supervisor on the county board for Jackson county; all other necessary officers shall be appointed by the common council.

Supervisors on county board.

Appointed officers and powers.

SECTION 6. The mayor, treasurer, assessor and aldermen shall be freeholders in said city, and all city and ward officers shall be qualified voters and residents of the city and in the ward for which

they were elected or appointed; all elective officers shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified, except justices of the peace, who shall hold their respective offices for two years and until their successors are elected and qualified; provided, however, the common council shall have power, for due cause, to expel any of their own number, and to remove from office any officer or agent, under the city government, due notice being first given to the officer complained of. The mayor shall have the power to suspend any street commissioner, police officer, marshal or watchman appointed by the council, when complained of, for cause, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created, for the time being.

Vacancies, how filled.

SECTION 7. Whenever a vacancy shall occur in the office of mayor, such vacancy shall be filled by a new election, which shall be ordered by the common council, within twenty days after such vacancy shall occur; any vacancy happening in any other office shall be filled by the common council; the person elected or appointed to fill any vacancy shall hold his office and discharge the duties thereof for the unexpired term except in case of justices of the peace, whose appointment shall continue only until the next charter election, when the vacancy shall be filled by an election and with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Elections shall be by ballot.

SECTION 8. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the common council, at such time and in such manner as they shall direct.

Who are qualified electors.

SECTION 9. All persons entitled to vote for county and state officers, and who shall have an actual residence in the city for thirty days next preceding the election, shall be entitled to vote for any officer to be elected, or other questions that may be submitted to the people for their vote.

Elections, how conducted.

SECTION 10. The mayor of the city of Black River Falls shall nominate to the common coun-

cil of said city, at their first regular meeting in April of each year, and in case there be no such regular meeting, then at a special meeting, which shall be held on the last Tuesday of said month, two inspectors of election and two clerks for each ward therein, who, together with the alderman of said ward, shall constitute the board of inspectors of election for their respective wards; and the alderman for each ward shall be the chairman of the board of inspectors for said ward; said common council shall immediately approve or disapprove such nominations, and in case of disapproval of any person so nominated, such mayor shall immediately nominate another person for such position, and shall so continue to do until two inspectors and two clerks shall have been nominated and confirmed for each ward, at such meeting. The persons so appointed inspectors and clerks shall hold their offices for one year, and shall act as inspectors and clerks at every general, municipal and special election held within their respective wards during such term. Such inspectors shall fill any vacancies in their number or in the number of such clerks. Every person so nominated and confirmed as an inspector or clerk shall be an elector of the ward for which he is appointed, shall be able to read and write the English language understandingly, and shall not be a candidate to be voted for at any election for which he is so appointed; and not more than one of such inspectors so nominated and confirmed shall be of the same political party, and the clerks shall be of opposing political parties, and when appointed to fill a vacancy shall have the same qualifications and belong to the same political party as the person he succeeds. If, at the time fixed for the opening of the polls on the day of any election, such inspectors or clerks, or either of them, shall fail to appear or refuse to act, or have become incapable of acting by removal of residence from such election district, or for other cause, and the inspectors appearing shall refuse to fill any such vacancy, the electors present may fill the same by *viva voce* vote.

Qualification of inspectors of election.

SECTION 11. If any inspector of election shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote shall be challenged by an elector, the inspector, before receiving the vote of any such per-

son, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be), that you are twenty-one years of age and that you are a citizen of the United States (or have declared your intention to become a citizen conformably with the laws of the United States on the subject of naturalization), that you have resided within the state of Wisconsin one year and within the city for thirty days next preceding the election, and that you are a resident of the ward in which you offer your vote, and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election;" which oath any inspector of election is hereby authorized and empowered to administer, and if any person offering to vote shall take such oath falsely, he shall be deemed guilty of willful and corrupt perjury, and upon conviction thereof, upon information or indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter shall vote at any such election, or being duly qualified shall vote more than once at any one election, he shall forfeit and pay to the city a sum not exceeding two hundred dollars nor less than fifty dollars. It shall be the duty of the inspectors of election to keep a list of the names of persons whose votes may be challenged as aforesaid, and who shall swear in their votes, which list shall be filed with the city clerk. The penalty for any unlawful or illegal conduct of clerks or inspectors of such elections shall be the same as that provided by the statutes of this state for similar conduct at any general election.

Penalty for illegal voting.

SECTION 12. No person shall be eligible to any office under this act, unless he is at the time a resident elector of the city.

Must be a resident.

SECTION 13. When the election shall be closed the inspectors shall proceed to count the votes cast for each and every candidate voted for, and shall make a return of the votes cast in their election precinct for each and every officer, and the number of votes cast for each and every person, for each and every office, which shall be subscribed by the inspectors, and shall be forthwith delivered to the city clerk and within one week after such election the council shall meet and canvass said returns and declare the result as it shall appear from the same. The clerk shall thereupon

Votes, how counted.

immediately give notice to the persons elected of their election; as soon as the votes are counted and canvassed by the inspectors they shall be destroyed, except as otherwise provided for in section 45 of the revised statutes.

Special elections, how conducted.

SECTION 14. Special elections to fill vacancies shall be held and conducted in the same manner, and the same returns thereof, shall be made in the same form and manner, as general or annual elections, and within such times as shall be prescribed by the common council.

Removal from city, or refusal to act, deemed a vacation of office.

SECTION 15. Any officer removing from the city, or any alderman removing from the ward for which he was elected, or any officer who shall neglect or refuse for one week after notice of his election or appointment to qualify, and shall neglect or refuse to enter upon the duties of his office at the commencement of his term of office, shall be deemed to have vacated his office; and when any officer from sickness or any other cause shall be unable to attend to the duties of his office, said office may be filled by appointment during the time of such disability, but no longer, and the common council shall proceed to fill any such vacancy as herein provided.

Votes for all officers shall be by ballot.

SECTION 16. The votes for mayor and all elective officers, shall be on one ballot, and shall be deposited in one box, and all other questions submitted to the people at the city elections shall be on separate ballots and deposited in separate ballot boxes.

Terms of office.

SECTION 17. The term of every officer elected under this act, except to fill a vacancy, shall commence on the first Monday of April of the year for which, and in which, he was elected, and shall, except justices of the peace, continue for one year and until his successor is elected or appointed and qualified; and justices of the peace shall hold their office for two years and until their successors are elected and qualified.

First election, when held.

SECTION 18. The first election of said city shall be held on the first Tuesday in March, A. D. 1883. The qualified electors of said city shall elect one mayor, one clerk, one treasurer, one assessor, two justices of the peace, and two constables at large, and one alderman from each ward, who shall also represent his ward as supervisor on the county board of supervisors, for Jackson county; all of said officers to be resident and qualified electors

of said city, and the aldermen shall reside in the ward from which he is elected, each and all of said officers elected at the first election to hold their respective offices until their successors are elected and qualified. The first election for said city shall be held for all the wards, in what is now known as the "Town House" for the town of Albion, and in the third ward of said city; there shall be four ballot boxes, one for each ward, and on each box shall be printed, in red paint, the number of the ward for which said ballot box is to be used, and each voter when he offers his vote shall state to the inspectors the number of the ward in which he resides, and his ballot shall be deposited in the box for that ward; but in case any ballot should be, by mistake of the inspectors, deposited in the wrong box, it shall be counted for the ward in which it of right belongs; but if a ballot should be deposited in the wrong box, without fault or mistake of the inspectors, then said ballot shall be counted for all but ward officers, and for those it shall not be counted. The inspectors shall be the judges as to who made the mistake. The voters present at the opening of the polls shall have power to proceed by *viva-voce* vote to elect three inspectors and two clerks, whose duty it shall be, after being sworn, to see that said election shall be conducted according to the laws of the state of Wisconsin; provided, further, that the returns of the first election shall be made to the village clerk of the village of Black River Falls, who, with the president of said village of Black River Falls, shall certify to and notify the officers elected within three days thereafter, and the officers so elected shall, on notice, forthwith qualify and enter upon the duties of their respective offices.

OFFICERS: THEIR POWERS AND DUTIES.

Duties and powers of officers.

SECTION 19. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city and the clerk, marshal, constables, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Black River Falls, a

bond, with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bond shall contain such penal sum and such conditions as the common council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, nor more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities, or exemptions, and the aggregate of such amounts shall, at least, exceed the penal sum specified in the bond. The council may, from time to time, require new or additional bonds, from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, except that their bonds shall be approved by the mayor of the city.

Duties of mayor.

SECTION 20. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state, and the ordinances of the city, are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall from time to time, give the common council such information, and recommend such measures, as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance, he may appoint as many special or temporary constables, as he may deem necessary. The mayor shall have a vote in the council only in case of a tie. When the council shall be engaged in the election of any officer, the mayor shall have a vote the same as an alderman.

Election of president.

SECTION 21. At the first meeting of the common council after their election in each year, they shall proceed to elect, by ballot, one of their number as president, and in the absence of the mayor the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case

both the mayor and president shall be absent from any meeting of the common council, they shall proceed to elect a temporary presiding officer, who for time being shall discharge all the duties of the mayor. The president or the temporary presiding officer, while presiding over the board, or performing the duties of mayor, shall be styled acting mayor, and any acts performed by them shall have the same force and validity as if performed by the mayor. The common council may also, at their first annual meeting, or so soon thereafter as may be, appoint the following officers: City marshal, attorney, one street commissioner, and other officers or agents necessary to the good government of the city, who shall hold their said offices for one year, unless removed as hereinafter provided. They shall, at the time of appointing said officers, fix the compensation or salary, and may prescribe the duties pertaining to the same.

Duties of clerk

SECTION 22. The clerk shall keep the corporate seal and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend, and copies of all papers filed in his office, and transcripts from the records of the common council, certified to have been compared by him with the original, and to be a correct transcript therefrom, under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. He shall file in his office all chattel mortgages presented to him for that purpose, and the renewals thereof, and safely keep the same, receiving therefor the same compensation as clerks of towns; and chattel mortgages so filed, and the renewals thereof, shall be as valid and legal as if the same had been filed in the town clerk's office in any town. The clerk shall have power and authority to administer oaths or affirmations.

Regarding justices of the peace.

SECTION 23. The justices of the peace elected under this act shall have the same jurisdiction in civil and criminal cases, and perform all duties of justices of the peace as provided by the general laws of the state, and in addition thereto, shall have exclusive jurisdiction of all criminal cases

arising within the city limits, and in all cases arising under the ordinances heretofore or hereafter passed by said city, unless therein otherwise provided, and said justices may hold their offices anywhere in said city, not otherwise prohibited by the laws of this state, and in case of change of venue for any cause whatever, the case shall be removed to the next nearest justice qualified by law to try the cause, and but one change of venue shall be granted in the same case for any cause whatever; provided, that in all cases where the justice has final jurisdiction, the parties in civil actions, and defendants in criminal actions, shall have the right to a trial by jury.

Regarding constables.

SECTION 24. The constables elected under this act, shall have the same jurisdiction as other constables, and shall qualify in the same manner as constables elected in organized towns, except the official bond of such constable shall be approved by the mayor, and filed with his oath of office, in the office of the city clerk.

Duties of treasurer.

SECTION 25. The treasurer of said city shall receive all moneys which may or shall be collected for the use of the corporation, by virtue of this act, or by virtue of any by-law or ordinance of the corporation, and giving the person paying the same, his receipt therefor; all moneys shall be drawn from the treasury by warrant under the corporate seal, signed by the mayor, by order of the common council, and countersigned by the clerk, who shall keep a record thereof, and any such warrant, shall set forth for what purpose the amount specified therein is to be paid; and the said treasurer shall pay out the funds of the corporation in no other way whatever. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer, in a book, to be provided by the corporation, for that purpose, which book shall be and remain the property of the corporation, and in said book he shall note the time when the persons from whom the amount of the several sums was received, and the source whence the said sums arose respectively, and in the same book he shall duly enter an account of all sums paid out; and said book shall, at all reasonable times, be opened to the inspection of the voters of said city; and the said treasurer shall annually, and as often as it shall require, render to the common council

a minute account of all his receipts and disbursements; said annual report shall be made and filed with the city clerk at least ten days before the annual election. The said treasurer shall be collector of taxes within the corporation, and in addition to the powers and duties already specified, shall have the same powers and duties and be subject to the same liabilities as treasurers in towns. He shall, in the same manner, before receiving the tax roll of the city, execute his bond to the treasurer of the county of Jackson, which bond shall be approved by the county treasurer, and upon filing the same, the treasurer of said county shall give him a receipt therefor, and upon filing the receipt with the clerk of said city, the said clerk shall deliver the tax roll of the city to him; and he shall proceed to collect the taxes as hereinafter provided. No person having been city treasurer for two years in succession shall be eligible to a re-election, until one year shall have elapsed, nor shall any person who has been city treasurer be appointed deputy treasurer, for the term immediately succeeding his term of office. The salary of the treasurer shall not exceed four hundred dollars ($400) per annum and shall be payable quarterly. Shall be collector of taxes.

SECTION 26. The assessor shall assess all the taxable property of the city of Black River Falls as required by law, and shall complete and return his assessment roll to the common council on the day fixed by the general laws of this state. The assessor shall receive for his services such compensation as the common council shall determine, not exceeding two hundred dollars for the term for which he was elected, and which shall be payable when the assessment roll is completed. Duties of assessor.

SECTION 27. The marshal shall possess all the powers of a constable in towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed by the mayor, and when necessary, in criminal cases, or for the violation of any ordinance of said city, or laws of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offense against any ordinance of said city, or laws of this state, and forthwith bring such per- Marshal.

son before competent authority for examination; and for such service he shall receive such fees as are allowed to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinances of said city. He shall have the power to appoint one or more deputies, to be approved by the council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

City attorney.

SECTION 28. The city attorney shall be a person duly admitted to practice in the courts of record, conformably to the laws of this state.

Street commissioner.

SECTION 29. It shall be the duty of the street commissioner within five days after his appointment and qualification, to inspect all the streets in the city, all sidewalks, crosswalks, ditches, gutters, culverts, and all bridges and approaches thereto, and all matters and things appertaining to the streets, and report to the common council, recommending what, in his opinion, is necessary and ought to be done thereto. On the receipt thereupon, the common council shall consider the same, and may adopt the whole or any part thereof, add to, strike out, amend or change any part thereof, and as soon as they have passed upon said report and recommendations, the street commissioner shall be informed of the action had thereon, whereupon said street commissioner shall cause such work to be done in accordance with the common council's amendments to his report and according to the orders and directions of said common council. Any party or parties may petition the common council for any work or improvement that they may particularly desire to be done, and said council may act thereupon as they may deem fitting and proper, and said street commissioner may, at other times, make such other reports as the necessities of the case may require.

Further duties of street commissioner.

SECTION 30. It shall be the further duty of the street commissioner to employ men, and procure utensils, implements, teams, materials, and whatever may be needful in performing such street and city work, and all this he shall do under the direction and advice of the common council, and he shall superintend all such work when directed by the council so to do, and shall keep an accurate account of all materials procured and of all teams and utensils and men employed by him, and be

able to certify to the account therefor, and shall do and perform, or cause to be done, any and all other duties pertaining to his office that may be prescribed from time to time by the common council.

Accounts against the city, how paid.

SECTION 31. All accounts against the city for either work, hire or materials for street purposes, including street commissioner's services, shall be paid out of the general fund, by orders drawn and issued by the common council. All such accounts for street purposes, except for work and hire, shall be duly verified, and, when they arose or were created under the direction of said street commissioner, shall be certified by him to be true and correct in all particulars. The common council may, at its option let all or any, of such street work by contract to the lowest bidder. The street commissioner shall be paid for his services, and for every day's service actually rendered, shall receive such compensation as the common council and said commissioner shall agree upon, at the beginning of his official year, or he shall be paid such sum per annum in lieu thereof, for the services required to be performed by him, as he and the common council can agree upon at the beginning of his official year.

Further duties of any officer may be required.

SECTION 32. The common council shall have the power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by them; such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office, or for which he is elected or appointed.

Legal newspaper.

SECTION 33. The common council at its first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers printed in said city, in which shall be published all ordinances and other proceedings and matters required by this act, or by the by-laws or ordinances of the common council, to be published in a public newspaper, which printing or publishing shall be let by contract to the lowest bidder or bidders.

City printer shall file notices.

SECTION 34. The city printer or printers, immediately after the publication of any notice or ordinance or resolution or by-law which by this act is required to be published, shall file with the clerk of the city a copy of such publication, with his or their affidavit or the affidavit of his or their foreman, of the length of the time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance, by-law or resolution, and the clerk shall file the same in his office.

Penalty for not delivering to successor.

SECTION 35. If any person having been an officer in said city, shall not, within ten days after notification and request by the city clerk or mayor, deliver to his successor in office all property, books, papers and effects belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of said city one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

No alderman shall be party to any job or contract.

SECTION 36. No alderman shall be a party to, or interested in any job or contract with the city, or any of the wards; and any contract in which any alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the aldermen interested in the same.

Who are officers of the peace.

SECTION 37. The mayor or acting mayor, sheriff of Jackson county, and each and every alderman, justice of the peace, marshal, under sheriff and deputy sheriff of Jackson county, and policeman, watchman and constables of said city shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders, and if need be, of all citizens; and if any person, bystander or citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of not more than fifty dollars ($50); and in case, when the civil power may be required to suppress riots or disorderly behavior, the superior

or senior officer present in the order mentioned in this section shall direct the proceedings.

City surveyor and his duties.

SECTION 38. There may be elected by the common council a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city, or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested; and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor at the expiration of his term of office, to his successor or the common council.

Duties required of justices of the peace.

SECTION 39. The justices of the peace shall, as often as the common council may require, report to the common council all the proceedings instituted before them in which the city is interested, and shall at the same time account for and pay over to the city treasurer all fines and penalties collected by them and belonging to said city; and said justices shall be entitled to receive from the county of Jackson such fees in similar cases as are allowed to other justices in the county for similar services.

THE COMMON COUNCIL: ITS GENERAL POWERS AND DUTIES.

Powers of the common council.

SECTION 40. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services as such, and the style of all ordinances shall be: "The mayor and common council of the city of Black River Falls do ordain," etc. The common council shall meet at such time and place as it by resolution shall direct. A majority of the aldermen shall constitute a quorum.

Annual meetings, when held.

SECTION 41. The common council shall hold its first annual meeting in each year on the second Tuesday after the annual election, and thereafter stated meetings at such times as it shall appoint, and the mayor may call special meetings by notice to each of the members, to be served personally, or left at their places of abode. The common council shall determine the rules of its own pro-

ceedings, and be judge of the election and qualification of its own members, and have the power to compel the attendance of absent members.

Shall have management and control of finances.

SECTION 42. The common council shall have the management and control of the finances, except school moneys, and all of the other public property in the city; and shall likewise in addition to the power herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, resolutions and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce as it shall deem expedient; declaring and imposing penalties and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws, are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority, by ordinance, resolution or by-laws:

License, showmen, etc.

1st. To license, regulate, suppress or prohibit the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, pool tables, bowling saloons, nine or ten pin alleys; to provide for the abatement and removal of all nuisances under the ordinances of said city, the laws of the state, or at common law, and shall grant, or refuse to grant, licenses to persons to sell, vend, deal or traffic in spirituous, vinous, malt or intoxicating liquors and drinks, within said city as shall be directed by the votes of said city at their annual election, and the question of granting or refusing to grant licenses in said city, to sell intoxicating liquors and drinks therein, shall only be submitted to the voters of said city at its annual election, and at no other time, and in case the question is not submitted to the voters at the annual election, the common council shall have no power or authority to grant any license to sell intoxicating liquors and drinks in said city. The question when submitted to the voters shall be upon a separate ballot, and the ballots on the license question shall be in the following form: Those in favor (For License), those against

Licensing of liquor selling.

(No License), and they shall be deposited in a separate ballot box provided for that purpose, and whenever a majority of the voters shall declare by their votes as aforesaid in favor of license then the common council shall grant licenses according to the provisions of the laws of the state of Wisconsin on that subject, and in case the mojority of the voters should declare for no license, or fail to declare for license as aforesaid, then, and in every such case, the common council shall have no power or authority to grant licenses for the sale of intoxicating liquors and drinks in said city; and all such licenses granted shall run from the first day of May in each year to the first day of May following; provided, however, that when any such license may be applied for after that date the same may be granted to expire on the first day of May of each year, on applicant paying *pro rata* therefor; but no license shall be granted for a longer period than one year.

Gaming.

2d. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice and other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away for the purpose of evading the law or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council; and to license, regulate and suppress hawkers and peddlers.

Riots, disturbances etc.

3d. To prevent any riots, noises, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Nauseous places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses, gunpowder.

5th. To direct the location and management of slaughter houses and markets, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

Encumbering of streets, etc.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, loco-

motives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood, or any other materials or substances whatever.

Horse racing. 7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle. 8th. To restrain the running at large of cattle, mules, horses, swine, sheep, poultry, and geese, and to authorize the distraining, impounding and sale of the same, for the penalty incurred and the cost of proceedings.

Dogs. 9th. To prevent the running at large of dogs in the said city, and to authorize the destruction of the same in a summary manner when at large, contrary to the ordinances.

Muzzling dogs. 10th. To provide for the secure muzzling of dogs, and for the killing and destruction in a summary manner, all dogs not muzzled, found within the said city running at large.

Putrid carcasses. 11th. To prevent any person from bringing, depositing, or having within said city, any putrid carcasses, or other unwholesome substances, and to require the removal of the same by any person, who shall have upon his premises any such substance, putrid or unsound beef, pork, fish, hides, skins or substances of any kind, and in default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Public pounds, etc., etc. 12th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, to erect lamps, and to regulate and license omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen and all others who may pursue like occupations in this city, and

Lighting of streets. to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Boards of health, pest houses, etc. 13th. To establish and regulate boards of health, provide hospitals, pest houses, and the return of the bills of mortality, and to exempt burial grounds, set apart for public use from taxation.

Size and weight of bread. 14th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding or driving on sidewalks. 15th. To prevent all persons riding or driving any ox, mule, cattle or other animal on the side-

walks in said city, or in any way doing damage to said sidewalks.

16th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council dangerous to the city or any property therein or annoying to any citizen thereof. Shooting of fire arms, etc.

17th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Restrain drunkenness.

18th. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to establish and regulate the police of the city. Runners and solicitors.

19th. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish, from the sidewalks, streets or alleys opposite thereto, and compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant. Removal of snow, dirt and rubbish.

20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same. Sale of hay.

21st. To regulate, control and prevent the landing of persons from railroad cars or stages wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city. Railroad cars.

22d. To regulate the time, place and manner of holding of public auctions or vendues. Public auctions.

23d To appoint watchmen and prescribe their duties. Watchmen.

24th. To provide by ordinance for a standard of weights and measures, and for the punishment of the use of false weights and measures. Weights and measures.

25th. To protect trees and monuments in said city. Trees.

26th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes and alleys, and to keep them free from incumbrances, and to protect them from injury. Highways.

27th. To alter or change the name of any street in the city. Names of streets.

Ordinances.

28th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, for the good order and government of the city, and which may be necessary or expedient to cary into effect the powers vested in the mayor and common council, or any officer of said city, by this act, or which may be vested in any officer of said city by any ordinance thereof.

Breweries, tanneries, etc.

29th. To direct the location, and regulate and license breweries, tanneries and packing houses.

Jurisdiction over streams.

30th. The common council shall have jurisdiction over the streams within the limits of said city, and may enact and enforce ordinances or by-laws for the preservation of fish in the waters thereof, so as to prohibit, regulate or license the taking or killing of fish in the waters thereof, at any time; and, may also, by ordinance or resolution, prevent any deterioration of the said waters, or by nuisance being cast therein by which the health of the inhabitants of the city or the purity of the waters shall be impaired, as it shall deem expedient.

Ordinances, how passed.

SECTION 43. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall within fifteen (15) days after their passage, respectively, be published in the official paper or papers of said city once before the same shall be in force; and within fifteen days thereafter they shall be recorded by the said clerk in books to be provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof respectively, within the same time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication; and such record of such law, ordinance, regulation or by-law, and the proof of such record, certified by the clerk, under the seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication of such law, ordinance, regulation or by-law. No appropria-

tion shall be made without a vote of the majority of the members of the common council in its favor.

Common nuisances.

SECTION 44. The powers conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Audit of accounts of officers.

SECTION 45. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, and all other officers and agents of the city, at such time as it may deem proper, and also at the end of each year, and before the time for which the officers of said city are elected or appointed shall have expired; and the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account, or present his books, funds, moneys and vouchers, to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city, who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

FINANCE AND TAXATION.

Control of funds.

SECTION 46. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk duly authorized by a vote of the common council, and all orders upon the treasury shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for

all city taxes except school and special taxes, for bridges and school purposes, and except taxes levied for the payment of the principal or interest of any outstanding indebtedness of said city, which shall be collected in money or in orders drawn upon such fund respectively; and all orders shall be payable to the persons or to the order of the persons in whose favor they may be drawn.

Levy of taxes.

SECTION 47. The common council of said city shall annually levy upon the taxable property of said city, to defray the current expenses of said city and its schools, a tax sufficient for that purpose.

Issue of bonds.

SECTION 48. The common council of said city shall not have power to issue any bonds or other evidence of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, and duly authorized by a majority vote of the electors of the city, nor shall the common council issue, in any one year, orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to build or repair bridges, a special tax may be levied for such purpose not exceeding two thousand dollars ($2,000), in any one year; and the said taxes when so levied shall be collected at the same time as other city taxes are collected.

Levy of taxes.

SECTION 49. Taxes may be levied by the common council, at any regular meeting, for the purpose of paying any outstanding indebtedness of the city of Black River Falls, and also for the payment of any bonds or any other evidence of debt hereafter issued or created in accordance with the provisions of this act, or by any authority of law. Said taxes, when so levied, shall be collected at the same time that other city taxes are collected.

Accounts to be verified.

SECTION 50. No account shall be allowed by the common council unless the same is verified by the owner thereof, or some person in his behalf.

Appeal from decision of council.

SECTION 51. When the claim of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of such council to the circuit court for the county of Jackson by causing a written notice of such appeal to be served

on the clerk of said city within thirty days after the making of such decision.

SECTION 52. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by ordinance or resolution of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with the decision thereon, and shall file the same together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of Jackson, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the cost of appeal, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against appellant for the amount of such excess. Notice of appeal, how made.

SECTION 53. No action shall hereafter be maintained by any person or persons against the city of Black River Falls, upon any claim or demand, other than a city bond or order, unless such person or persons shall have first presented his claim to the common council of said city, nor until ten days after the next annual city election thereafter. Action, how maintained.

SECTION 54. The determination of the common council, disallowing, in whole or in part, any claim of any person shall be final and conclusive and a perpetual bar to any action in any court founded on such claim, unless an appeal shall be taken from the decision and determination of such common council as hereinbefore provided; provided, however, that when the common council shall refuse or neglect to act upon any claim duly presented to them, this chapter shall not be construed so as to prevent the institution and maintenance of any action, by said claimant, against said city. Determination of council to be final.

OPENING OF STREETS, ALLEYS, ETC.

Opening of streets.

SECTION 55. The common council shall have power to take, for the use of the city, in the manner hereinafter provided, any lots or any land for public squares, grounds, streets and alleys, and to widen or straighten the same, or for the purpose of erecting a public hall, market house, fire engine house or any building in the construction of water works, or for flowing the same, for supplying the city with water or any other lawful municipal purpose, or for erecting hospitals or pest houses, for the prevention of contagious or infectious diseases within the city, or for any needful or convenient purpose in connection with, or to execute and accomplish any other power, right or privilege, conferred on, or granted to the city by its charter, or any act amendatory thereof, or by any act of the legislature; and may take the same, and whether within or without the city, by conveyance from the owner upon a bargain, or upon a donation thereof, or in manner as follows: Whenever it shall, in the option of the common council, be necessary, said council shall declare, by resolution, that it is necessary to take any such lots or lands for any of the purposes above set forth, giving description of the premises, defining separately each parcel thereof separately owned and the purpose for which they are to be taken. The common council shall thereupon cause a written notice, as prescribed in the next section, to be served upon the occupant or occupants of such lands, and the owner or owners of the same, if the place of residence of such owner or owners is known, or can be ascertained by reasonable diligence, when such residence is within this state, and in case such owner or owners are non-residents of the state, or their place of residence, after due diligence by the city attorney of said city, cannot be ascertained, which fact shall be made to appear by his affidavit, then the common council shall cause service of such notice to be made on such non-resident owner or owners, or the owner or owners, the residence of whom cannot be ascertained, by causing the same to be published for six weeks in the official paper of the city, at least once each week, and by causing such notice to be mailed, postpaid, to the address of such owners within five days from the time of the

first publication of such notice when the post-office address of such owner is known.

Notice, by whom signed.

SECTION 56. Such notice shall be signed by the city clerk or city attorney, and shall state the adoption of the resolution and embrace a copy thereof, and further that at a time and place therein named, not less than ten days after the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge of the said county of Jackson, for a jury to enquire and determine whether it is necessary to take the land or any part thereof, described in such resolution, for the purposes therein specified. Such notice shall further state the time and place at which such jury will be applied for to meet to discharge such duty; and the judge aforesaid shall fix the time and place so named in the precept hereinafter mentioned, and no other notice thereof shall be necessary.

Condemnation of premises.

SECTION 57. At the time fixed in said notice for the appointment of such jurors, the judge named in said notice, upon proof of the service of the same on the owner or owners of the premises described in such notice, which proof shall be in the same manner as is now required to make proof of the service of a summons in civil actions in courts of record in this state, shall appoint twelve competent persons, having the qualification of jurors in and for the county of Jackson, and not residents of the ward in which such premises are situated, not interested in such application, but residents of the city shall not be disqualified. The same rights of challenge peremptorily, or for favor or cause, may be exercised by the city attorney, and by such land owner whose land is sought to be taken, or by his agent or attorney, as a party to a civil action in the circuit court is entitled to have; and the judge shall decide the same in like manner, and replace the name of any jurors successfully challenged, by the name of some other competent person, until a jury of twelve be chosen. The said judge shall thereupon issue his precept directed to such jurors, requiring them and each of them to appear before him, on the day named in the notice for such jurors to meet for the discharge of their duties under such appointment. The precept so issued may be served by the sheriff of said county, or by any public officer of said city. The jurors so chosen shall, before entering upon

the performance of their duty, take an oath before such judge faithfully and impartially to discharge their duty as such jurors, and a true verdict give, whether it is necessary to take such land, or any part thereof, mentioned in such resolution, for the purpose therein specified.

In regard to the jurors.

SECTION 58. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

Jurors shall view the premises.

SECTION 59. The said jurors shall forthwith under direction of said judge, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, whose testimony shall be reduced to writing by said judge; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Shall deliberate apart.

SECTION 60. After having made such view and heard such testimony as shall have been produced, the said jury shall, under direction of said judge, deliberate apart and return their unanimous verdict in writing, signed by them, in which they shall find and state whether it is necessary to take the whole of the lands described in such resolution for the purpose therein specified, or any part thereof, describing particularly the part to be taken, if they find only a part thereof so necessary. Such verdict, with all the papers, proceedings and testimony had before him and said jury, shall then be forthwith filed by said judge with the clerk of the circuit court for Jackson county, together with a certificate by said judge that the same are the originals and the whole thereof. The clerk shall, on application, furnish a certified copy of the same, or any part thereof, which shall have the same force and effect as the originals. In case any jury called under the provisions of this charter shall disagree, another jury shall be forthwith selected in like manner, and all the like proceedings thereafter had as hereinbefore provided for the first jury, except that the said judge shall fix a reasonable time for the assembling of such jury in the precept therefor, but no other notice thereof shall be necessary to any party; and the like steps shall be taken in case of any further disagreement, until a verdict shall be found.

SECTION 61. Should the necessity for the taking of the premises, or any part thereof, mentioned in the resolution of the council, be so established by the verdict of the jury, then the common council may enter an order directing the city attorney to proceed to procure, to be assessed and appraised the damages to the owner or owners of the premises so found necessary to be taken, by reason of the taking of the same for the purpose specified. The city attorney shall thereupon make application to the judge of the circuit court or judge of the county court for Jackson county, briefly setting forth the fact, that the necessity for taking such premises has been so established by the verdict of a jury, and praying the appointment of three commissioners to appraise the damages of each and all of the several owners of such lands, and showing the amount of land, giving the metes and bounds thereof, the purpose for which the same is to be taken, and the names of the several owners so far as the same are known to the city attorney. Five days' notice of the time and place when such application will be presented to such judge, accompanied with a copy of such application, shall then be served on each owner in the cases, when required, and in the manner provided in section 55 of this act. At the time and place designated, such judge shall hear all parties interested who appear, and shall appoint three disinterested and reputable freeholders of said county as such commissioners, by his order in writing, to ascertain and appraise the compensation to be made to the owners of, or persons interested in, the land so found necessary to be taken, and fix the time and place for the first meeting of said commissioners.

Shall determine value of building.

SECTION 62. If there should be any building standing, in whole or in part, upon the lands to be taken, the commissioners before proceeding to make their assessment, shall first estimate and determine the whole value of such building to the owner aside from the value of the land and the injury to him in having such building taken from him; and secondly, the value of such building to remove.

Notice to be given.

SECTION 63. At least ten days personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not

known or a non-resident, notice to all persons interested shall be given by publication in the official paper three successive weeks; such notice shall specify the building and the award of the commissioners. It shall also require the parties interested to appear by a day therein named, or give notice of their election to the common council, either to accept the award of the commissioners, and allow such building to be taken, with the lands appropriated, or their intention to remove such building, at the rate set thereon by the commissioners to remove. If the owner shall agree to remove such building, he shall have such time for this purpose as the common council shall allow.

May sell building.

SECTION 64. If the owner refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the council shall have power to direct the sale of such building at public auction, for cash giving ten days notice of such sale. The proceeds shall be paid to the owner or deposited for him in the city treasury.

Commissioners shall take and subscribe oath.

SECTION 65. The commissioners shall take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution, before entering on the discharge of their duties. A majority of them may adjourn the proceedings before them from time to time in their discretion. They shall cause notice to be given to each party interested of the time when, and the place where, they will meet to consider the amount of compensation to which he is entitled, which notice shall be personally served on such party, or his authorized agent or attorney, or by leaving the same at his residence or place of business, with a person of suitable age and discretion, at least six days before the time of such meeting. If such party is a non-resident of this state or his residence is unknown, and he has no authorized agent or attorney in this state, such notice shall be published in a newspaper as aforesaid, for such length of time as the court or judge appointing said commissioners shall direct. The commissioners shall file a proof of such notices, or of the appearance of such parties before them, either personally or by attorney, with their report. But it shall not be necessary to serve or publish notice of any subsequent meeting held pursuant to adjournment.

SECTION 66. The commissioners shall view the premises described in the petition and hear the allegations of the parties, and shall appraise, ascertain and determine the value of each tract or parcel of land proposed to be taken, with the improvements thereon, and of each separate estate therein, and the damages sustained by the owner by reason of the taking thereof, and fix the amount of compensation to be made to each of such owners therefor; and in fixing the amount of such compensation said commissioners shall not make any allowance or deduction from the value of the real estate taken on account of any real or supposed benefits, which the parties in interest may derive from the construction of the proposed improvement, for which such real estate may be taken; but special benefits to the real estate adjoining the lands so taken, shall be allowed in deduction of any damages sustained by the owner to such adjoining real estate. In case of any building on the land, and proceedings shall have been taken as provided in sections 62, 63 and 64, the said commissioners shall include the value of such building as estimated by them, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building. A majority of the commissioners, all being present, shall be competent to determinate all matters before them. The commissioners shall, within twenty days after viewing any of the lands so taken, make and file in the office of the clerk of the circuit court of such county, a report of their proceedings concerning such lands, setting forth the award made for each tract or parcel thereof or separate estate therein, to the owner or owners thereof. The commissioners shall be entitled to such compensation as the court may direct, which shall be paid by the city.

Commissioners shall view the premises.

SECTION 67. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such person or interest respectively, may be awarded to them by the commissioners, less the benefits resulting to them respectively, from the proposed improvement.

If the lands or buildings belong to different persons.

Final duties of commissioner.

SECTION 68. Whenever the commissioners shall have completed their duties and filed the report of their proceedings and determination as before provided, the common council may, if they shall deem it expedient, by resolution or ordinance, order such improvement to be made and the land which has been so found necessary to be taken therefor, to be taken and used; and in such case the city shall be absolutely liable to the owner or owners or parties entitled thereto, for all compensation that may be established against said city therefor; and the council may also in that case make an assessment of the compensation to be paid therefor, with the costs of proceedings, or such part thereof as they shall determine to be just, upon the lands found by them to be directly benefited by such improvement, in such proportion to the benefits enjoyed, as they shall determine. If the council shall not deem it expedient to make such improvement, they may, by resolution, order all further proceedings to be discontinued.

Right to appeal.

SECTION 69. Any person being dissatisfied with the amount of compensation for property taken, or the amount assessed as benefits, shall have the right to appeal to the circuit court within twenty days from the time of awarding of compensation or assessment of benefits, by serving on the mayor, or city clerk, a notice of appeal therefrom, and giving a bond to the city in not less than one hundred dollars ($100), to be approved by the mayor, acting mayor or city clerk, to pay all costs of appeal in case the appellant shall not, upon such appeal, increase the amount of compensation or decrease the amount assessed as benefits, as the case may be. The common council may appeal in behalf of the city, by giving notice to the opposite party, without giving bond. Upon filing such notice with the clerk of the circuit court, the appeal shall be considered an action pending in court for trial there, as other actions, and shall be entered by the clerk upon the records of the court by setting down the party appealing as plaintiff and the other party as defendant. Such appeal shall be tried by jury, unless a trial by jury be waived by both parties; costs shall be allowed to the successful party, in accordance with the conditions of said bond.

SECTION 70. The report of the commissioners

shall be recorded by the clerk of the court, in whose office the same is filed, in the judgment book of such court, and at any time after the making of such award the city may set apart in its treasury, to the order of the owner or owners of the lands so taken, or pay the same to such owner or owners, or to the clerk of said court for the use of such owner or owners, the amounts awarded by the commissioners, and thereupon may enter upon, take and use the land for the purposes for which it was condemned, and may obtain from either of said judges, upon twenty-four hours notice, a writ of assistance, to put its officers or agents into possession of the same. If such city be in possession or put in possession of such land, pending an appeal, the owners or parties entitled thereto shall be entitled to receive the money paid into court or set apart in the city treasury on account of the award appealed from, without prejudice to the appeal taken; but if the city shall have appealed, such money shall only be so withdrawn by leave of court, upon filing a bond in such sum and with such surety as shall be approved by the court or judge, to repay the amount by which such award shall be abated on such appeal, with costs. If any defect of title to, or encumbrance upon, any parcel of the premises, shall be suggested in said petition, or if any party to said proceeding, or any person not a party, shall petition to the said court, setting up a claim adverse to the title set out in said petition to said premises, and to the money or any part of it to be paid as compensation for the property so taken, the court shall hear and determine the right of the parties to said money, and for that purpose may order a reference or an issue to be tried by a jury. Either party may except to the decisions of the court and appeal to the supreme court in like manner as in actions. Either court may award costs to the prevailing party, and render judgment therefor against the other party.

Report of commissioner to be recorded.

SECTION 71. When the whole of any lot or tract of land or other premises under lease or under contract shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties touching the same or any part thereof,

Contracts, etc., void.

shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

When part of land only is taken.

SECTION 72. When only a part of a lot or tract of land, or other premises so under lease or contract, shall be taken from any of the purposes aforesaid, all the covenants, contracts or agreements, respectively the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable and to be paid for, and in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more shall be paid or recoverable for, in respect to the same.

Infants in law.

SECTION 73. When any known owner of lands or tenants affected by any proceedings under this charter shall be an infant or labor under any disability, the judge before whom the proceedings are pending may, upon the application of the council, or such party or his next friend, appoint a guardian for such party, in the same manner as in a civil action in a court of record, and all notices required by this charter shall be served on such guardian.

Powers of judge or court.

SECTION 74. The judge or court before whom proceedings are pending shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest as he deems proper, and also to appoint other commissioners in place of any who shall die, or refuse or neglect to serve, or be incapable of serving.

Survey to be made.

SECTION 75. Whenever any public grounds, street or alley shall be laid out, widened or enlarged, or other public improvements made under the provisions of this chapter or this act, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Changing name and vacating streets.

SECTION 76. The council shall have the power to change the name of any street and to vacate any plat or portion thereof that may be petitioned for by the proprietor of such plat, or any person interested therein; but no petition for such vacation shall be acted upon, unless notice of such

application to the council shall have first been published in the official city paper or papers, for at least two weeks prior to the meeting of the council.

Laying out roads.

SECTION 77. Roads or streets may be laid out by the council through unplatted lands in the same manner as roads are laid out by supervisors in towns.

Directions only directory.

SECTION 78. All the foregoing directions given in this chapter shall be deemed only directory, and no error, irregularity or informality of any of the proceedings under the provisions of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

CITY IMPROVEMENTS.

Grading and paving streets.

SECTION 79. The council shall have power to order and contract for the making, grading, paving, macadamizing, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters, sewers, drains and sidewalks in the manner hereinafter mentioned, and direct and control the persons employed therein.

Cost and expense, to whom assessed.

SECTION 80. The cost and expense of surveying or repairing streets, alleys, sidewalks, drains and sewers, and of estimating work thereon, in the execution of any public improvement, shall be charged to and payable by the city. The cost and expense of opening, grading, graveling, paving, macadamizing or planking streets and alleys and constructing or repairing sidewalks, shall be payable out of the general funds of the city, sewers, crosswalks and drains may be ordered by the council, and all costs and expenses as well as the damages which shall be sustained by owners of lands through which the same shall pass shall be charged to and payable by the city.

Work done on streets, how ordered.

SECTION 81. Whenever the council shall require any street to be repaved or macadamized, it shall determine the manner in which the work shall be done, and of what material; and the street commissioner, or such other person or officer as the council may designate to have charge of the work, shall let a contract for doing the whole of such work. Public notice of the letting of such contract shall be given by advertisement in the official paper of the city for at least twenty days, and the contract shall be awarded to some responsible bidder, whose bid it shall deem most reasonable and

proper; the cost of such paving or macadamizing shall be paid by the city out of the general funds of the city.

Work on streets, by whom supervised.

SECTION 82. In case no bids shall be received for the performance of any work required to be done by this act, the council may cause such work to be done under the supervision of the street commissioner, or a committee of the council, and the expense for doing the same shall be paid for by the city out of the general funds of the city.

Cemetery grounds.

SECTION 83. The cemetery gounds now owned by the village of Black River Falls, and controlled by the trustees of said village, shall hereafter be owned by the city of Black River Falls and controlled by the mayor and common council of said city of Black River Falls, and they shall be empowered to purchase in the name of said city additional grounds for cemetery purposes.

Village merged into city.

SECTION 84. All money and property of every nature and description whatever belonging to the village of Black River Falls, shall, after the passage and publication of this act, belong to and be the property, money and effects of the city of Black River Falls.

The county bridge.

SECTION 85. The county bridge across Black river, in the city of Black River Falls, shall be and remain a county bridge, and shall be kept up and maintained at the county expense, and in no event shall said county bridge be kept in repair or maintained at the city expense, and said city shall not, in any event, be liable for injuries caused by any defect in said bridge.

ASSESSING, LEVYING AND COLLECTING OF TAXES.

In regard to taxable property.

SECTION 86. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, its schools, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessor elected under this act shall have and possess the same powers, and be subject to the same duties and liabilities, as township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors and make such rules and regulations

in relation to revising, altering or adding to such rolls as they may, from time to time, deem advisable.

The assessment roll.

SECTION 87. The assessor shall return the said assessment roll to the board of equalization of the city, on or before the first Monday in July in each and every year. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter and add to, take from, and otherwise revise and correct the same.

In regard to omissions on assessment roll.

SECTION 88. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted for such year or years, that it shall have been omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect, as it would have had if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract, as the same would have been chargeable with, had not the same been so omitted; and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosoever hands the same may have come. Should the tax or assessment upon any parcel of land be set aside, or declared void by reason of any defect or informality in the assessing, levying, selling or conveying of the same, but not affecting the equity and justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relevied in such manner as they shall by ordinance direct; provided, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed, shall be levied and continue a lien upon such lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Board of equalization.

SECTION 89. The mayor, the city clerk, the assessor, and one alderman from each ward, shall constitute the board of equalization. Such board

of equalization, shall meet on the first Monday of July each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed, so far as the same is applicable, reviewing, correcting, and equalizing the assessment roll of the city. The mayor shall be president of the board of equalization, and the city clerk, the clerk thereof, and all changes made in said roll by said board, shall be recorded by the clerk, and when finally completed, the said assessment roll shall be filed with the city clerk.

When taxes are to be determined.

SECTION 90. On the first Monday of October in each year, or within ten days thereafter, the common council shall determine the amount of taxes authorized by law and by this act, to be levied for general city purposes, for school purposes and for paying the city's indebtedness, due or to become due for the ensuing year; and shall, by resolution, levy the same; but no such resolution shall be adopted except by a vote of two-thirds of the members elect, which shall appear in the proceedings of the common council.

Taxes to remain a lien.

SECTION 91. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and upon all personal property of any person or body politic, assessed for personal taxes, from the date of the warrant for the collection thereof, until such taxes shall be paid; and no sales or transfers of such real property shall affect such lien. Any personal property belonging to the person taxed may be sold for the payment of taxes upon personal property or real property.

Abstract of assessment roll to be sent to county clerk.

SECTION 92. Before the annual meeting of the board of supervisors of the county of Jackson, and by the time required by the laws of this state for the return of assessments from the several towns, the city clerk shall transmit an abstract of the assessment roll to the county clerk of said county, who shall lay the same before the board of supervisors at their annual meeting.

City regarded as a town for equalization purposes.

SECTION 93. The board of supervisors shall regard the city of Black River Falls as a town, in equalizing the assessment of the several towns in said county, as provided by law; but in such equalization shall consider the assessment roll of said city as an entire roll.

SECTION 94. The said board of supervisors may levy a tax or taxes upon such city, as now is, or may be provided by law hereinafter, in relation to towns, and shall cause the amount of taxes so levied to be certified to the city clerk in the manner provided by law in relation to towns and town clerks, and in all transactions of the board of supervisors of said county said city shall be regarded as a town, except as herein otherwise provided. May levy a tax.

SECTION 95. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, city or other purposes, and all delinquent taxes of any previous years, and all special taxes levied by the common council since the making out of the annual tax list, in such separate columns as may be necessary, with the total footings carried out opposite each tract or lot of land, or persons named therein, which statement shall be called the tax list of the city of Black River Falls, and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council. Assessment roll, how filled out.

SECTION 96. The tax list made out and preserved as aforesaid shall be *prima facie* evidence in every court of record in this state, that every act or thing required by law to be done, relating to assessing or levying of taxes, from the election of officers to the completion of the tax list, inclusive, has been done regularly and correctly as required by law. Prima facie evidence.

SECTION 97. Immediately after making out the tax list as aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes specified in said duplicate copy of the tax list, in the manner provided by law, and said clerk shall, on or before the tenth day of December of the same year, deliver the same to the city treasurer, for collection, and make a record of such delivery on the tax list preserved in his office. Duplicate copy

SECTION 98. Upon the receipt of any tax roll and warrant by the treasurer, he shall give public Notice to be given.

notice of four days in a newspaper published in said city, and by posting the same in three or more public places in said city, that such tax list has been committed to him for collection, and that he will receive payment for taxes at his office therein, on and after the day in such notice to be specified.

Treasurer shall collect.

SECTION 99. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive two per cent. fees upon all taxes paid to him before the tenth day of January, and five per cent. fees upon all taxes paid or collected after that time, which fees when collected shall be paid into the treasury of the city, for the benefit of the general fund.

State tax.

SECTION 100. The treasurer shall, on or before the last Monday in January in each year, pay to the county treasurer the state tax apportioned to said city of Black River Falls by the board of supervisors of said Jackson county.

Returns, when made to county treasurer.

SECTION 101. On or before the last Monday in January in each year, unless the time be extended as provided by law, the said treasurer shall make out a return to the treasurer of the county in which said lands may be, a list of all lands and lots upon which the taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers. The said treasurer shall also, at the said time, make out and deliver to the city clerk a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalty or fees to such delinquent returns as are allowed, or are required by law upon delinquent returns from the several towns.

County treasurer shall sell.

SECTION 102. The county treasurer shall sell all delinquent lands and lots returned from the city of Black River Falls, at the same time and in the same manner as other delinquent lands are sold in said county.

Only directory.

SECTION 103. All the directions hereby given, except in section 90 of this chapter, for the assessing of lands and the assessing and levying, collections and returns of taxes and assessments, shall

be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Judgment taxes.

SECTION 104. The common council shall have power to levy a tax or taxes to pay any and all judgments against the city.

Penalty for neglecting duties.

SECTION 105. In case the city treasurer shall at any time refuse or neglect to perform his duties in enforcing the payment of taxes, as provided by this act, and as authorized and required by the laws of this state, the common council shall forthwith remove such treasurer from office, and appoint a suitable person to fill the vacancy.

Collection of taxes may be enforced.

SECTION 106. At the expiration of the time, now or hereafter designated by the general laws of this state, for the collection of personal taxes, the treasurer shall proceed to enforce the collection thereof in the same manner as now is or may hereafter be prescribed by such law.

Poll taxes.

SECTION 107. Every male inhabitant of the city of Black River Falls over twenty-one years of age and under fifty, except active members of the fire department, shall pay into the city treasury annually the sum of one dollar and fifty cents ($1.50) each, as a poll tax. It shall be the duty of the assessor of the city of Black River Falls to make out duplicate lists of all persons liable to said tax in the city, and said assessor shall, on or before the first Monday of July, in each year, deliver one of said lists to the city clerk and one to the treasurer of the city of Black River Falls. The said treasurer shall thereupon immediately proceed to collect the same; and all persons liable to pay such tax who shall not have paid the same within twenty days after demand, either personal or by written notice left at their usual place of abode, shall be liable to and shall pay a penalty of two dollars, together with the costs of prosecution, to be prosecuted for, by said treasurer in the name of the city of Black River Falls. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail not to exceed ten days. The moneys collected as above shall go to the general fund of

the city. The mayor, city clerk and treasurer shall constitute a board to determine the liabilities of persons to pay such tax; and all persons claiming to be exempt from such tax must apply to said board within twenty days after the demand or notice mentioned in this section.

FIRE DEPARTMENT.

Fire department.

SECTION 108. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and every building within the limits prescribed, shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

Construction of chimneys, etc.

SECTION 109. The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed, or placed in a safe condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time, as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fire; to regulate and prevent the use of fire-works and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roof and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire-wardens and other officers of the city, to keep away from the vicinity of a fire, all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguish-

ment of fires, as the common council may deem expedient, and to provide penalties for the violation of any resolution or ordinance passed under this section.

Purchase of fire engines.

SECTION 110. The common council shall have full power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded and their meetings to be prohibited and their apparatus to be delivered up. Each company shall not exceed seventy able-bodied men, between the ages of eighteen and fifty years, and may elect its own officers, except chief engineer and assistant engineer, who shall be appointed by the council, and form its own by-laws, not inconsistent with the laws of the state or the ordinances and regulations of said city, and shall be formed only by voluntary enlistments. Every member of said company hereby authorized to be formed, shall be exempt from highway work and poll tax and from serving on juries, and military duty, except in case of war, insurrection or invasion, during the continuance of such membership; and any person having served for the term of ten years in either of such companies, shall be forever thereafter exempt from poll tax and military and jury duty, except as in cases before mentioned.

Fire wardens.

SECTION 111. The mayor shall appoint two fire-wardens for each ward subject to confirmation by the common council, who shall perform such duties as the common council may prescribe, and they may, at any time, enter into any building, house, store, barn or inclosure for the purpose of inspecting the same.

Penalty for refusing to act.

SECTION 112. When any person shall refuse to obey the lawful order of any engineer, fire warden or alderman of the city, the mayor or city marshal at any fire, it shall be lawful for the officer giving such order to arrest, or direct, orally, the marshal, constable or watchman or any citizen to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished, and in the same manner such officers or any of them, may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; any person who

shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars.

Sack company.

SECTION 113. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such names as they may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineers; the members of the said company, either collectively or individually, are hereby authorized and empowered to act as special police in and for the city of Black River Falls, and are hereby vested with all the power and authority which now is or may hereafter be vested in any other police officer of said city, and shall be entitled to all the rights and immunities of the fire department, except exemption from jury duty. At fires they shall take charge of all property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction; such company may, from time to time, adopt such by-laws as they may deem necessary, not inconsistent with the laws of this state, or the ordinances of said city. The members thereof shall not be entitled to any compensation for any services rendered in their official capacity. They shall, in case of riot or other disturbance of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

Treasurer.

SECTION 114. The treasurer of the fire department, who shall be the city treasurer, shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city, in such penal sum as may be required, and with sureties to be approved by the common council; such moneys shall only be paid out on orders signed by the chief engineer, or acting chief engineer, and countersigned by the clerk of said department.

Clerk or secretary.

SECTION 115. There shall be elected by the members of each company aforesaid, annually, at their annual meetings, a clerk or secretary and a treasurer, who shall, on or before the first Monday of May, in each year, return to the city clerk a list

containing the names of each member of their respective companies; and when any member of either of said companies shall cease to be a member thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk.

Shall keep a record.

SECTION 116. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries as above provided; and no person shall be exempt from jury duty unless his name is entered on such list. In case any person shall, for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the clerk of the board of supervisors of the county of Jackson, a list of all members who are members of either or all of said companies exempt from jury duty, on or before the day now appointed, or which may hereafter be appointed for the annual meeting of said board, and said board shall not place the names of such persons on the jury list for the ensuing year.

Tax for fire purposes.

SECTION 117. The council shall have power to raise a tax each year, not exceeding five (5) mills on the dollar of the taxable property within said city, for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city, and the moneys arising therefrom shall be expended under the direction of the council of said city for fire purposes.

Tax on fire insurance companies.

SECTION 118. All corporations, companies and associations, not incorporated under the laws of this state, engaged in said city in effecting fire insurance, shall pay to the city treasurer at the rate of two per cent. upon the amount of all premiums which shall have been received, or shall have been agreed to be paid for any insurance, effected or agreed to be effected, on any property in said city, by or with such corporation or associations respectively, in manner and at the times as prescribed by the general laws of the state in relation thereto. The money so received shall go to the general fund of the city, to be used and paid out for the purposes of said fire department.

May purchase a stone crusher.

SECTION 119. The common council shall have power to purchase a stone crusher, and to purchase stone and cause the same to be broken and prepared for use in improving the streets of the

city. The council may, with the consent of the sheriff, or of the board of supervisors of Jackson county, deposit stone when brought upon the grounds connected with the jail, of said Jackson county, and may use in breaking said stone such labor of prisoners under sentence in said jail as the sheriff will furnish, or may use said labor in breaking stone or in doing any other work in any part of the city, on such terms as may be agreed upon between the city and the county of Jackson.

Shade trees.

SECTION 120. The council shall have power to require the owner of any lot or grounds in said city to set out ornamental or shade trees in the street in front of the same, and to protect and preserve them, and, in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expense of the same. It shall also have power to determine the lines on which the trees shall be set, the places where they are to be set, and the kind and size of the trees to be set, and the manner of protecting them, and for replanting them, when they have died or been so injured as to fail to answer the purpose for which they were set out, and to prohibit the setting out of any trees that may be regarded as nuisances, and to order their removal when they have hitherto been set out. It shall also have power to provide for and direct the trimming of shade trees to such proper proportions, and to do all other needful acts as to them shall seem just and proper, to give this section proper effect.

Highways.

SECTION 121. The common council may expend for the improvement of any highway or highways leading into said city, not to exceed two thousand dollars ($2,000) in any one year, to be expended under and by the direction of the common council.

Agricultural society.

SECTION 122. The common council may expend for the improvement of the Jackson County Agricultural Society's fair grounds in said city of Black River Falls, not to exceed one thousand dollars ($1,000) in any one year, to be expended under and by direction of the common council of said city.

ACTION TO RECOVER PENALTIES, ETC.

SECTION 123. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations,

made in pursuance thereof, shall be brought in the corporate name of the city, and shall be commenced by complaint substantially in the following form:

Forms.

STATE OF WISCONSIN,
Jackson County, } ss.
City of Black River Falls.

—— —— being duly sworn, complains on oath to the justices of the peace of the city of Black River Falls, that —— did on the —— day of ——, 18—, violate the —— section of an ordinance, by-law or resolution (describing it by its title), which said —— is now in force, as this complainant verily believes, and prays that —— —— may be arrested and held to answer to the city of Black River Falls therefor.

Subscribed and sworn to before me this —— day of ——, 18—.

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated in the foregoing forms of complaint; and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

STATE OF WISCONSIN,
City of Black River Falls, } ss.
County of Jackson.

To the sheriff or any constable of said county, or the marshal of the city of Black River Falls, greeting:

Whereas, —— —— has this day complained to me, in writing, on oath, that —— —— did, on the —— day of ——, 18—, violate the sections of an ordinance, by-law, regulation or law (describing it by its title), which said —— is now in force and effect, as said complainant verily believes. Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of the said —— —— and bring him before the justice of the peace of said city, to answer to said city of Black River Falls on the complaint aforesaid.

Given under my hand, this —— day of ——, 18—.

—— ——, Justice of the Peace.

How to proceed.

SECTION 124. Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent, or for cause.

If the case be adjourned, the defendant, if required by the court so to do, shall recognize, with surety, for his or her appearance, in such sum as the court shall direct, or in default therefor, may be put in the charge of the officer who made the arrest, or be committed to the common jail of Jackson county. The complaint made aforesaid, shall stand in lieu of a declaration, and the plea of "not guilty" shall put at issue all subject matter which pertains to the defense of the action.

SECTION 125. A printed copy of an ordinance, by-law or resolution passed by the common council, and published in a newspaper, or in pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and may be received in evidence after issue joined, and upon trial in all cases cognizable before the justice of the peace.

Regarding attendance of witnesses and jurors.

SECTION 126. Witnesses and jurors shall attend before the justice court in all city and criminal prosecutions, without the payment of fees in advance, or a tender thereof, upon the process of the court duly served, and in default thereof, their attendance may be enforced by attachment. In case the jury, after being kept a reasonable time, should disagree, they shall be discharged, without the payment of fees, and thereupon the court shall adjourn the cause to a day certain, and issue a new venire as aforesaid.

Findings of the court.

SECTION 127. In city prosecutions the finding of the court or jury shall be "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture, prescribed in this act, or in the ordinance, by-law or regulation for which the violation of which the person or persons shall have (been) adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city; and in all cases of conviction, in actions brought or prosecuted to recover a penalty, fine or forfeiture, under any of the provisions of this act, or for the violation of any ordinance of said city, the court shall enter judgment against the defendant for the fine and costs of prosecution, and if the defendant shall neglect or refuse to pay such fine and costs, the court shall enter a judgment that the defendant be imprisoned in the county jail of Jackson county for such term as may be prescribed by this act or the ordinance violated, not exceeding three months, and shall

forthwith commit the defendant for the term fixed for said judgment; or the court may, in its discretion, in case of the non-payment of such fine and costs as aforesaid, enter judgment that said defendant be imprisoned as aforesaid and kept at hard labor for the benefit of the city of Black River Falls, in the said jail, or upon the public streets or elsewhere within said city, under the supervision of the city marshal, or such member of the police force as may be detailed by the mayor for that purpose, for the period of time for which such person or persons shall have been so committed, unless the judgment and expenses of imprisonment are sooner paid; and all persons so committed and kept at labor, shall be allowed one dollar per day for each day's labor rendered, exclusive of board, and the amount so earned shall be applied in liquidation of the judgment until the same shall be fully paid by such labor, at which time the judgment shall be satisfied, and the defendant discharged from custody.

Such execution may be in the following form:

Forms.

COUNTY OF JACKSON, }
City of Black River Falls, } ss.

The state of Wisconsin to the sheriff or any constable of said county, and to the keeper of common jail of said county, greeting:

Whereas, the said city of Black River Falls, on the —— day of ——, 18—, recovered a judgment before the undersigned, one of the justices of the peace in and for said city, against —— ——, for the sum of —— dollars, and —— cents, costs of suit, for the violation of section —— of chapter —— of this act, or section —— of an ordinance or by-law or regulation of said city (describing it by its title), you are hereby commanded to levy distress of the goods and chattels of said —— —— excepting such as the law exempts, and make sale thereof according to law, to the amount of said sum, together with your fees and twenty-five cents for this writ, and the same return to me in thirty days, and for want of such goods and chattels, whereon to levy, to take the body of said —— ——, and him convey and deliver to the keeper of the common jail in Jackson county, and the said keeper is hereby commanded to receive, keep in custody in said jail, the said —— ——, for the term of ——, unless the said judgment, to-

gether with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this —— day of —, 18—

—— ———, Justice of the Peace.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writs.

Appeal.

SECTION 128. In all cases where judgment is rendered against a defendant for the recovery of fines or penalties mentioned in this act, or the ordinances now in force or hereafter to be ordained, the defendant may appeal from such judgment to the circuit court of the county of Jackson, in the same manner as is now provided by law, from judgments of justices of the peace in criminal cases.

Trial by jury.

SECTION 129. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof, after the day the judgment of the justice of the peace shall be rendered, and no notice of trial shall be required to be given to, or by, either party.

In case judgment is affirmed.

SECTION 130. If the judgment of the justice of the peace shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them, and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Shall not work incompetency.

SECTION 131. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city in any proceeding or action in which the city shall be a party in interest.

Process, how served.

SECTION 132. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of the said mayor or clerk so served, forthwith to inform the common council thereof, or to take such demand or proceedings as by ordinance or resolution of said council may be in such case provided.

Penalties to be paid into treasury.

SECTION 133. All penalties and forfeitures recovered and collected under and by virtue of this act,

shall be paid into the city treasury for the use and benefit of said city.

Exempt from attachment.

SECTION 134. All fire engines, hose carts, hooks and ladders, and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action or on any judgment wherein the said city shall be a party.

Shall not be levied upon.

SECTION 135. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, or on any judgment against said city.

Pardons.

SECTION 136. The mayor shall have power to grant pardons or commutations, after convictions for all offenses against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting with the reasons therefor.

Judgments against the city.

SECTION 137. When a judgment shall be recovered against the city of Black River Falls, or against any city or ward officer in an action prosecuted by or against such officer in his name of office, where the same should be paid by the city, no execution shall be awarded or issued upon such judgment, except as herein provided; but the same, unless reversed, shall be levied and collected as other city taxes, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if any payment thereof, be not made within sixty days after the city treasurer is required to make his return of taxes next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution on special application therefor.

MISCELLANEOUS PROVISIONS.

Credit of the city.

SECTION 138. The credit of the city shall never be given or loaned in aid of any individual, association or corporation.

One per cent tax.

SECTION 139. No tax for general city purposes shall be levied in any one year exceeding one per

cent. of the assessed valuation of property in the city in that year.

Borrowed money.

SECTION 140. The city shall have no power to borrow money or contract any debt which cannot be paid out of the revenue of the current year.

Let by contract.

SECTION 141. All work for the city exceeding one hundred dollars ($100) in amount shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract.

Extra compensation.

SECTION 142. No extra compensation shall be allowed to any officer, agent, servant or contractor after the service shall have been rendered, or the contract entered into, nor shall any compensation be paid to the mayor or any aldermen for their services.

May settle claims against city.

SECTION 143. The council shall settle all just claims and demands against the city, and settle with the treasurer annually, and publish accounts of the receipts and expenditures of the city, for the information of the citizens.

A public act.

SECTION 144. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

In case of incapacity.

SECTION 145. Whenever the city clerk may be absent or incapacitated from performing the duties of his office, the common council may appoint some suitable person to perform, for the time being, the duties of the office, and the acts of the person so appointed shall be of full effect and legality.

May change the boundaries.

SECTION 146. The common council shall have the right and power at any time after said city shall have been organized under this act, by ordinance, to change the boundaries of the said several wards of the city, and to make and establish new wards therein, whenever the common council may deem best; provided, that whenever the common council proceed to alter or change the boundaries of said wards, or to establish new wards in said city, due regard shall be had to the population and the valuation of property in each ward, so that all the wards in said city, when so changed or established, shall be as near equal in their respective populations and assessments as practicable.

Penalty for collusion by officers

SECTION 147. Every member of the common council of the city of Black River Falls who shall,

directly or indirectly, vote for himself, or knowingly to any other person, any sum of money for any purpose whatever, in violation of the city charter or any amendment thereof or shall ask or receive any compensation for doing any official act, except as inspector of elections, member of the board of registry, and as a member of the board of equalization, or for extra work on committee; any member of the common council or any other city officer who shall be, directly or indirectly, interested in any contract made with or in behalf of said city, and any member of said council or other city officer who shall, directly or indirectly, purchase, or be interested in the purchase, of any city order or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted either by indictment or complaint before any justice of the peace having jurisdiction, and upon conviction thereof shall be punished by fine not exceeding one hundred dollars nor less than twenty dollars, or by imprisonment in the county jail for not more than thirty days nor less than ten days, or both, at the discretion of the court, and shall forfeit his office; and any contract made in violation of the provisions of this section shall be void.

Licenses, how issued.

SECTION 148. Every license issued by the authority of this act, or the ordinances of the city, shall be signed by the city clerk and sealed with the corporate seal of the city; but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor. Nor shall any license be issued for dealing in, selling or vending spirituous or malt liquors, until the same shall have been authorized by the people and directed by the common council, and the applicant shall have filed a receipt as aforesaid, together with a bond as required by the laws of this state, which bond shall be approved either by the mayor or common council; every such license shall contain a clause prohibiting the selling, vending or giving away of any spirituous, vinous or malt liquors on general or special election days.

Assignees of licenses.

SECTION 149. No assignee of any license shall be permitted to pursue the occupation or business

licensed, except by a vote of two-thirds of the common council.

Punishment of drunkards, etc.

SECTION 150. Any person who shall be guilty of drunkenness, or immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct in the streets or public places of the city of Black River Falls, shall be deemed guilty of a misdemeanor, and on conviction thereof, before a justice of the peace of said city, shall be punished by a fine of not less than one, nor more than one hundred dollars, or by imprisonment in the county jail of Jackson county, not less than two days, nor more than three months.

Unauthorized appropriations.

SECTION 151. No moneys shall be appropriated for any purpose whatever except such as are expressly authorized by this act.

Remission of penalties.

SECTION 152. No penalty or judgment, recovered in favor of the city, shall be remitted or discharged except by a two-thirds vote of the aldermen elect.

Survey of streets.

SECTION 153. The common council may, at any time, cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent land marks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk and recorded in the office of the register of deeds of Jackson county.

Prima facie evidence.

SECTION 154. The surveys and land marks so made and established, shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Establish the grades of streets.

SECTION 155. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city to the owner of any lot or parcel of land, or tenement which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained shall be so construed

as to prevent the street committee of the several wards of said city from ordering, or causing to be done, the grading of any street within their ward to a temporary grade to be established by such committee.

City may purchase real estate.

SECTION 156. The city may have, purchase and hold real and personal estate sufficient for the conveniences of the inhabitants thereof, and may sell and convey the same, and the same while owned, occupied or held by said city shall be exempt from taxation.

SECTION 157. No real or personal property shall be subject to special taxation for street or sidewalk purposes; but all streets and sidewalks are to be maintained out of the general funds of the city.

Property, how deeded.

SECTION 158. When the city of Black River Falls deeds or leases any real estate, or any interest therein owned by said city, the party of the first part shall be the city of Black River Falls, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Mayor to convey real estate.

SECTION 159. The mayor of said city is hereby authorized, when the common council shall by ordinance or resolution for that purpose, describe the real estate and interest to be conveyed, order and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged as is provided for the execution of deeds and conveyances.

Recorded deeds.

SECTION 160. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease, a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds, which said deed or lease and such copy so attached and record thereof, shall be, in all courts of this state, *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

In case an election is not held at the proper time.

SECTION 161. If any election by the people for common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein pre-

scribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be held at any subsequent day by order of the common council; and if any of the duties enjoined by this act or the ordinances or by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time, at which said act may be done or performed.

Disposition of moneys paid into the city treasury.

SECTION 162. All moneys paid to the city on account of any or all licenses whatsoever, granted or issued by the common council of said city (except licenses for the sale of malt, spirituous or intoxicating liquors), shall be paid into the city treasury, and become a part of the general fund of said city.

Use of jail.

SECTION 163. The use of the jail of Jackson county, until otherwise provided, shall be granted to said city, on such terms as may be agreed upon between the city and the county of Jackson, for the confinement of offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe-keeping and delivery the sheriff shall be responsible, as in other cases.

City, how represented on board of supervisors.

SECTION 164. The city of Black River Falls shall be represented in the board of supervisors of Jackson county by one alderman from each ward.

The regular committees.

SECTION 165. The regular committees of the common council shall be as follows: On finance, streets, ordinances, fire department and licenses, and shall be appointed by the mayor at the first meeting after the annual election, or as soon thereafter as convenient.

Remit assessments.

SECTION 166. The common council may, by unanimous vote thereof, remit any tax or special assessment, or any part thereof, whenever the same shall be manifestly illegal or unjust.

Town meeting held in city.

SECTION 167. The citizens of the town of Albion shall have the privilege to hold all town meetings and all general and special elections at such place in the city of Black River Falls as they may determine, and the officers of said town of Albion may transact all town business in said city and with the like effect as if held or done in the town of Albion.

Paupers.

SECTION 168. The paupers of said city shall be

removed to the poor house of the county of Jackson by the mayor or aldermen, in like manner as they are removed from the several towns in said county.

Obligations of aldermen.

SECTION 169. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made by the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed and approved as by this act provided.

May resign.

SECTION 170. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the council.

May remove a member.

SECTION 171. The common council may, by a two-thirds vote thereof, upon due notice and hearing, expel any member thereof, or remove any officer or agent of the city for incompetency, misconduct or neglect in the discharge of official duties.

No road district.

SECTION 172. The city of Black River Falls shall constitute no part of a road district.

Not repealing or annulling this charter.

SECTION 173. No general law of this state contravening the provisions of this act shall be construed as repealing, annulling or modifying the same, unless such purposes be expressly set forth in such law, as an amendment to this chapter or this act.

Personal property tax, cannot be returned.

SECTION 174. No personal property tax shall be returned by the city treasurer to the county treasurer, but the city treasurer shall have the same powers to collect said personal property tax as is now conferred by law upon county treasurers for the collection of personal property taxes.

Provisions.

SECTION 175. In all matters arising under the provisions of this act, not particularly provided for by the provisions of this act, the same shall be governed by the general provisions of law on that subject.

Repealing clause.

SECTION 176. All acts and parts of acts conflicting with the provisions of this act, particularly the act incorporating the village of Black River Falls, and all acts amendatory thereof, are hereby repealed.

SECTION 177. This act shall take effect and be in force from and after its passage and publication.

Approved February 20, 1883.

[20, A.] [Published April 26, 1883.]

CHAPTER 5.

AN ACT to incorporate the city of Merrill.

The people of the state of Wisconsin, represented in senate and Assembly, do enact as follows:

Boundaries.

SECTION 1. From and after the third Tuesday in February, A. D. 1883, the following described district of country, to wit: The west one-half (½) of section seven (7), and the northwest quarter (¼) of section eighteen (18), all in township thirty-one (31) north, of range seven (7) east, and sections ten (10), eleven (11), and twelve (12), and the north one-half (½) of sections thirteen (13), fourteen (14) and fifteen (15), all in township thirty-one (31) north, of range six (6) east, lying and being in the county of Lincoln, and state of Wisconsin, shall be a city, the name of which shall be Merrill, and the people inhabiting said territory shall be a municipal corporation, to be known and designated as "The City of Merrill." Said corporation shall have all the general powers possessed by municipal corporations at common law and under the general statutes of the state of Wisconsin, and in addition thereto, the powers hereinafter granted, and shall be capable of contracting and being contracting with, of suing and being sued, pleading and being impleaded in all courts, of purchasing, holding and conveying real and personal estate; and shall have a common seal and may alter the same at pleasure.

Ward boundaries.

SECTION 2. Said city shall be divided into six wards, the boundaries of which, until changed as hereinafter provided, shall be as follows, to-wit: All that territory lying in the following boundaries shall be known as the First ward, viz.: Beginning in the center of section eighteen (18), town thirty-one (31) north, of range seven (7) east, and running north to the quarter (¼) post on the north side of section seven (7), town thirty-one (31) north, of range seven (7) east; thence west on the section line to the northwest corner of the N. E. one-fourth (¼) of the N. E. one-fourth (¼) of section twelve (12), town thirty-one (31) north, of range six (6) east thence; due south one-half (½) mile; thence west along the center of the street to a point where the center of Park street intersects the former street; thence south, following the

center line of said Park street to the south bank of the Wisconsin river; thence westerly along the south bank of said river to the line between sections thirteen (13) and fourteen (14) of town thirty-one (31) north, of range six (6) east; thence south to the quarter (¼) post between said sections thirteen (13) and fourteen (14); thence east to the place of beginning. All that territory lying in the following boundaries shall be known as the Second ward, viz.: Beginning at the northwest corner of the First ward and running west one-half (½) mile to the north-west corner of the N. E. one-fourth (¼) of the N. W. one-fourth (¼) of section twelve (12), town thirty-one (31) north, of range six (6) east; thence on a line due south to a point where said line intersects the center of Poplar street; thence south twenty (20) degrees east, to the center of Main street; thence south seventy (70) degrees west, to the east line of fractional lot two (2), in the last above named section; thence south to the north bank of the Wisconsin river; thence easterly along the north bank of said river to where the west line of the First ward crosses the same; thence north and west on said ward line to the place of beginning. The street running south twenty (20) degrees east, along the east side of the high school block to Main street is the one referred to as Poplar street. All that territory lying in the following boundaries shall be known as the Third ward, viz.: Beginning at the northwest corner of the Second ward and running west to the Prairie river; thence along the east and north bank of Prairie river to the Wisconsin river; thence north and east along the bank of the Wisconsin river to the west line of the Second ward; thence north and west along said ward line to the place of beginning. All that territory lying in the following boundaries shall be known as the Fourth ward, viz.: Beginning on the north bank of the Wisconsin river, where the west line of section ten (10), town thirty-one (31) north, of range six (6) east, intersects the same, and running thence north to the northwest corner of said section ten (10); thence east to the east bank of the Prairie river; thence south and westerly along said bank of said river to the south line of the N. W. one-fourth (¼) of the S. E. one-fourth (¼) of section eleven (11), town thirty-one (31) north, of range six (6) east; thence west to the center of the

east channel of the Wisconsin river; thence down the center of said channel to a point seventy-five (75) feet south of the south point of the island known as Howe and Chandler's island, thence up the center of the west channel and the main river to a point south of the place of beginning; thence north to the place of beginning. All that territory lying in the following boundaries shall be known as the Fifth ward, viz.: Beginning at the north bank of the Wisconsin river, where the Prairie river intersects the same, and running westerly and north along said bank of said Wisconsin river to the north line of fractional lot three (3), section eleven (11), town thirty-one (31) north, of range six (6) east; thence east to the east bank of the Prairie river; thence down said bank to the place of beginning. All that portion of section ten (10), town thirty (31) north, of range six (6) east, lying south of the Wisconsin river, and all that portion of the north one-half (½) of sections fourteen (14) and fifteen (15) of the above named town, lying south of the Wisconsin river shall constitute the Sixth ward.

Corporate authority, in whom vested.

SECTION 3. The corporate authority of said city shall be vested in one principal officer, styled the mayor; two aldermen from each ward and the ward supervisors, who, with the mayor, shall be denominated the common council; and in such other officers as are hereinafter provided for, or may be created under this act.

ELECTIONS.

Regarding elections.

SECTION 4. The annual election for city and ward officers shall be held on the first Tuesday in March of each year, at such place in each ward as the council shall designate; not less than five days notice shall be given of the time and places of holding all elections and of the officers to be elected by publication in the official city paper. The aldermen and supervisors of each ward shall be the inspectors of election for their respective wards, and may appoint clerks of election for such wards. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as at such general election, and that each elector shall reside in the city at least thirty days, and in his ward at least ten days prior to such election.

In case a special election is to be held in the city other than for ward purposes, the council may order a single poll for the entire city, and appoint the place where the election is to be held, and the inspectors of election and clerks therefor. Each ward officer shall be a qualified elector in the ward in which he is elected, and each city officer shall be a qualified elector in the city.

Officers to be elected.

SECTION 5. The officers to be elected by the people shall be a mayor, treasurer, assessor, two justices of the peace and three constables for the city at large, and two aldermen to be elected in each ward, and one supervisor for each ward. All of said elective officers, except justices of the peace and constables, shall be free-holders in said city.

Place and notice of election.

SECTION 6. The town board of the town of Merrill, shall appoint the places for holding the first election in the several wards of said city, and shall appoint inspectors and clerks of such election, and at least five days prior to such election, they shall publish in a newspaper printed in said city, a notice specifying the places in the several wards where such election is to be held. The general laws of this state upon the subject of elections and prescribing punishment for illegal voting, so far as they are consistent with this charter, shall apply to said election and to all elections hereafter held in said city. No spirituous or malt liquors shall be sold within said city, upon the day of any election held therein, and any person offending against this provision of this section, shall be guilty of a misdemeanor and punished by fine of fifty dollars or by imprisonment in the county jail for sixty days, or by both such fine and imprisonment, and the city council shall have power to create and prohibit the same offense by ordinance and to punish it by penalties not exceeding the penalty above prescribed.

Who shall canvass votes.

SECTION 7. At such first election, the clerks and inspectors in the several wards shall canvass the votes in their respective ward, in the manner provided by the general statutes of this state, and shall forthwith make returns of said votes to the town board of supervisors of the town of Merrill, which board shall, on the day succeeding said election, canvass said returns and declare the result of said election, and give certificates of election to the several persons elected to office. Such re-

turns, including the return of said town board, shall be reduced to writing and shall be filed in the office of the city clerk, as soon as said clerk shall qualify and enter upon the duties of his office.

Appointed officers.

SECTION 8. All necessary officers, not hereinbefore named as elective officers, shall be appointed by the council. All elective officers, except justices of the peace, shall, unless elected to fill a vacancy, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, that the council shall have power, for due cause satisfactory to them, to expel any of their own number, and to remove from office any officer or agent of the city, except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The term of office of every officer elected or appointed under this act, shall commence on the second Tuesday in March of the year for which such officer is elected or appointed, except that of superintendent of schools, which shall commence on the second Tuesday of July, next succeeding his appointment, and the term of office, of all other appointed officers, shall expire on the second Tuesday of March, next succeeding their appointment, unless sooner removed.

Vacancies.

SECTION 9. Whenever a vacancy shall occur in the office of mayor or alderman, the council may order a new election, and shall give five days' notice thereof. Vacancies in other offices shall be filled by the council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Plurality elects.

SECTION 10. In all elections by the people a plurality of votes shall constitute an election. In case two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as it may direct.

Insufficient qualifications.

SECTION 11. Whenever any officer shall cease to possess the qualifications necessary for his election, his office shall be deemed vacant; and any

officer who shall neglect or refuse to qualify within ten days from the time he shall be notified of his election, shall be deemed to have vacated his office.

Returns, to whom made.

SECTION 12. Whenever an election shall be held under this charter, the inspectors of election shall forthwith make their returns, stating the number of votes cast for each person, for each and every office, to the city clerk. Within one week after an election, the council shall meet and canvass said returns, and declare the result as it shall appear from the same. The clerk shall thereupon immediately give notice to the persons elected, of their election.

Member of the county board.

SECTION 13. Immediately after the charter election in each year the supervisor and aldermen of each ward shall meet in their respective wards and designate one of such aldermen to attend the meetings of the county board, and act as a member of the county board to represent his ward in case of the inability of the supervisor of the ward from any cause to act.

OFFICERS—THEIR POWERS AND DUTIES.

Duties of officers.

SECTION 14. Every person elected or appointed to any office under the city charter, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the clerk of the city, and the clerk, marshal, constable, and such other officers as the council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Merrill, a bond, with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bond shall contain such penal sums and such conditions as the council shall deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, and not more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities, or exemptions, and the aggregate of such amounts shall, at least, exceed the penal sum specified in

the bond. The council may, from time to time, require new or additional bonds, from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, except that their bonds shall be approved by the council.

Duties of mayor.

SECTION 15. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state, and the ordinances of the city, are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall from time to time, give the council such information, and recommend such measures, as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance, or apparent necessity, he may appoint as many special or temporary constables as he shall deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and to appoint a marshal in place of the one he may remove, but the term of office of a marshal who may be appointed by the mayor, shall not commence until his nomination has been approved by a majority of the council. The mayor shall have a vote in the council only in case of a tie, except when the council shall be engaged in the election of any officer, in which proceeding he shall have a vote the same as an alderman. When presiding over the council his style shall be, " Mr. President."

POWERS OF MAYOR.

Powers of mayor.

Section 16. The mayor shall have power to veto any ordinance, act or resolution passed by the council, or the allowance of any claim by notifying the council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution, or the allowance of such claim. In case of no session of the council, on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and the clerk shall thereupon call a special meeting of the council, by giving notice in the same manner as other special meetings are

called, to consider such veto and objections, and in case the council shall not, within one week, after receipt of such objection or such filing with the clerk, re-enact such ordinance, or pass such resolution by the vote of two-thirds of all the members of the council elect, the same shall be null and void. If the mayor shall not return any ordinance, act, resolution or claim within seven days after the passage or allowance thereof, it shall take effect in the same manner as if he signed it.

Election of president.

SECTION 17. At the first meeting of the council after its election, in each year, it shall proceed to elect, by ballot, one of its number president, and in the absence of the mayor, the said president shall preside over the meetings of the council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor. In case both the mayor and president shall be absent at any meeting of the council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of mayor. The president, or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by him shall have the same force and validity as if performed by the mayor.

DUTIES OF CLERK.

Clerk.

SECTION 18. There shall be a city clerk appointed by the common council who shall keep the corporate seal, and all papers and records of the city, and keep a record of the proceedings of the council, at whose meetings it shall be his duty to attend, and copies of all papers filed in his office, and transcripts from the records of the council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the council, and keep a full and accurate account thereof in books provided for that purpose. Whenever the clerk shall be absent from any meeting, the council may appoint a clerk pro tem. The city clerk

shall have power and authority to administer oaths and affirmations. He shall also be the sealer of weights and measures of said city, and be governed by the general laws of the state appertaining to the sealing of weights and measures by town clerks.

DUTIES OF TREASURER.

Treasurer.

SECTION 19. The treasurer shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements in such manner as the council shall direct. He shall report to the council as often as is required, and annually, at least, ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties and be subject to the same liabilities as treasurers in towns. No person, having been city treasurer for two years in succession, shall be eligible to a re-election, until one year shall have elapsed, nor shall any person, who has been city treasurer, be appointed deputy treasurer, for the term immediately succeeding his term of office. The salary of the treasurer shall not exceed three hundred dollars ($300) per annum and shall be payable quarterly.

DUTIES OF MARSHAL.

Marshal.

SECTION 20. The marshal shall possess all the powers of a constable in towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed or delivered, for that purpose, and when necessary, in criminal cases, or in case of the violation of any ordinance of this city or laws of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing any offense against any

ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed to constables for like service, but he shall receive no fees for services performed in behalf of the city. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinance of said city. He shall have the power to appoint one or more deputies, to be approved by the council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Powers of council.

SECTION 21. The council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of the city charter, and to prescribe their duties, and to fix the compensation of all officers appointed by it, where the compensation is not fixed by statute. The council shall, at least ten days before the annual charter election in each year, fix, by resolution, the salary which shall be paid to the clerk, treasurer, marshal, assessor and school superintendent for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected, neither shall extra compensation be granted except by unanimous vote of the council, which vote shall be approved by the mayor; provided, that the salaries of the officers elected at the first charter election in said city shall be fixed by the common council at the first meeting, and the salaries of the following named officers shall not exceed the following amounts: City clerk, two hundred dollars ($200) per year; city assessor, two hundred dollars ($200) per year; city marshal, four hundred dollars ($400) per year, and city treasurer three hundred dollars ($300) per year, and shall be payable quarterly.

Official paper.

SECTION 22. The council, at the first meeting after its election, or as soon thereafter as practicable, shall designate a newspaper printed in said city, which shall be the official paper of the city, in which shall be published all ordinances and other matters required by the city charter, or the by-laws or ordinances of the city to be published in a newspaper.

Affidavit of publication.

SECTION 23. The city printer or printers, immediately after the publication of any notice, ordinance or resolution which is required to be published, shall file with the clerk of the city, a copy of such publication, with his or their affidavit or the affidavit of his or their foreman, of the length of the time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution, as stated in such affidavit.

Penalty for refusing to deliver over property.

SECTION 24. If any person, having been an officer in said city, shall not, within ten days after notification and request deliver to his successor in office, all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city a sum not exceeding one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

No collusion.

SECTION 25. Neither the mayor, nor any member of the common council of said city, shall be a party to, or interested in any job or contract with the city, and any contract in which the mayor or any member of the common council may be interested shall be null and void; and in case any money shall have been paid by, or for, the city on any such contract, the city may sue for and recover the amount so paid.

OFFICERS OF THE PEACE.

Peace officers.

SECTION 26. The mayor, or acting mayor, sheriff of Lincoln county, and each and every member of the common council, justice of the peace, marshal, constable and watchman, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of all bystanders, and if need be, of all citizens; and if any person, bystander, military officer, or private shall refuse to aid in maintaining the peace when so required, every such person shall pay a forfeiture of not more than fifty dollars ($50); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present in the

order above mentioned in this section, shall direct the proceedings.

CITY ENGINEER.

City engineer.

SECTION 27. The council may elect a city engineer, and prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the city clerk, and shall be open to the inspection of the public.

Actions against city.

SECTION 28. All actions to recover any penalty or forfeiture under the city charter, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by, or before any justice of the peace in the city. All forfeitures and penalties collected by any justice in such cases shall be paid over to the city treasurer. Each justice shall report to the council on the second Monday in March, June September and December, in each year, a statement of all such forfeitures and penalties collected by him, and at the same time, pay over the amount thereof to the city treasurer. No person shall be incapacitated or excused from testifying in any such action by reason of being implicated in the offense or act charged; but the testimony of such witness shall, in no case, be used against himself.

RESIGNATIONS.

Resignations.

SECTION 29. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant from the time such resignation shall be accepted by the council.

Sureties on bonds.

SECTION 30. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made by the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed and approved as by the city charter provided.

THE COMMON COUNCIL—ITS POWERS AND DUTIES.

Style of ordinances.

SECTION 40. The mayor, supervisors and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and

common council of the city of Merrill do ordain," etc. The council shall meet at such time and place as it shall fix upon. A majority of the aldermen and supervisors shall constitute a quorum.

Stated meetings.

SECTION 32. The council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally, or left at their usual places of business or abode.

RULES OF COUNCIL.

Rules of council.

SECTION 33. The council shall determine the rules of its own proceedings; shall be the judge of the election and qualifications of its own members, and a less number than a quorum shall, at any regular or special meeting, have power to adjourn or compel the attendance of absent members.

CONTROL OF FINANCES.

Control of finances.

SECTION 34. The council shall have the management and control of the finances, and of all of the property of the city; and shall likewise, in addition the power herein vested in it, have full power and to authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, as it shall deem expedient; declaring and imposing penalties and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions or by-laws:

LICENSES.

Regarding licenses.

1st. To license and regulate the exhibition of common showmen or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, pool tables, bowling saloons, and to provide for the abatement and

removal of all nuisances under the ordinances or at common law, and to grant licenses and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors.

Gaming, fraudulent devices.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice or other games of chance, for the purpose of gaming in said city, and to restrain, any person from vending, giving or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the council.

Disorderly houses, etc.

3d. To prevent any riots, noises, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Nauseous places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses.

5th. To direct the location and management of slaughter houses and markets, and regulate the storage, safe-keeping and conveying of gunpowder or other combustible materials.

Encumbering of streets.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with carriages, carts, wagons, sleighs, boxes, lumber, fire wood, or any other materials or substance whatever.

Horse racing and bathing.

7th. To prevent horse racing, and immoderate riding or driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

8th. To restrain the running at large of cattle, swine, sheep, poultry, and geese, and to authorize the distraining, and sale of the same, and to prevent the keeping of swine within any portion of the city where their presence may be offensive to the inhabitants in the vicinity, or may be regarded as nuisances.

Dogs.

9th. To prevent the running at large of dogs and to authorize the destruction of the same in a summary manner when at large, contrary to the ordinance.

10th. To prevent any person from bringing,

Unwholesome substances. depositing, or having within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance, putrid or unsound beef, pork, hides or skins of any kind, and on default to authorize the removal thereof by some competent officer at the expense of such person or persons.

Hacks, cabs etc. 11th. To regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city.

Boards of health. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Size of bread. 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Driving on sidewalk. 14th. To prevent all persons from riding or driving any ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.

Fire arms, fire crackers. 15th. To prevent the shooting of firearms or fire-crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof.

Drunkards. 16th. To restrain drunkards, immoderate drinking, vulgarity or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners, solicitors, etc. 17th. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to regulate the police of the city.

Public markets. 18th. To establish public markets, and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets and to restrain all persons from intercepting or interfering with the due observance of such rules and regulations.

Butcher stalls. 19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.

Weighing and measuring hay. 20th. To regulate the place and manner of the measuring, weighing and selling of fuel and hay,

and to appoint suitable persons to superintend and conduct the same.

21st. To compel owners or occupants of buildings or grounds, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupeid by him, all such substances as the board of health shall direct; and in his default to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant. Removal of snow and dirt.

22d. To regulate, control and prevent the landing of persons from railroad cars or stages wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city. Contagious or infectious diseases.

23d. To license auctioneers, peddlers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers, peddlers and transient dealers. Auctioneers.

24th. To appoint watchmen and prescribe their powers and duties; but the powers of watchmen, in making arrests and in taking prisoners before magistrates and committing them to jail shall be the same as those of constables. Watchmen.

25th. To prohibit and punish by suitable fines, penalties or forfeitures, the use of false weights or measures within said city. False weights.

26th. To protect trees and monuments in said city. Trees.

27th. To provide for and regulate the construction of sewers within said city. Sewers.

28th. To alter or change the name of any street in said city. Names of streets.

29th. To regulate and license the ringing of bells, and the crying of goods, wares and merchandise, or other commodities in the streets or vacant lots of said city. Ringing of bells.

30th. To regulate the running of locomotives, engines and cars through the city. Locomotives.

31st. To regulate and control the erection of awnings and awning posts, and to provide for and control the erection and maintenance of safe and convenient hitching posts and places for fastening teams, at such points as the council may deem necessary. Awnings, hitching posts.

32d. To establish public markets and make Public markets

rules and regulations for the government of the same.

Breweries.

33d. To direct the location of and regulate and license breweries, tanneries and packing houses.

Shall be by vote.

SECTION 35. All ordinances shall be passed by an affirmative vote of a majority of the council, and shall be signed by the mayor, and shall be published in the official paper of the city, but no ordinance shall be in effect until ten days after its publication, and within fifteen days after such publication, they shall be recorded by the city clerk in books provided for that purpose: but before any of the said ordinances shall be recorded, the publication thereof respectively, within the time hereinbefore provided, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times such record, or a duly certified copy thereof, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be deemed and taken as *prima facie* evidence of the time and manner of such publication and of the passage of such ordinance.

Shall not bar or hinder suits.

SECTION 36. The powers conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings according to law. Gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed public or common nuisances.

Examine accounts.

SECTION 37. The council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal, and all other officers and agents of the city, at such time as it may deem proper, and also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired: and the council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his said duties, in pursuance of this

section, or shall neglect or refuse to render his account, or present his moneys, books and vouchers, to said council, it shall be the duty of the council to declare the office of such person vacant; and the council shall order suits and proceedings at law against any officer or agent of the said city, who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

STREETS, ALLEYS, ETC.

Streets, alleys, etc.

SECTION 38. The council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use lands in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in any ward, shall, by petition, represent to the council that it is necessary to take certain lands within the ward where such petitioners reside, for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the ward for the purpose of constructing and repairing sewers and drains, giving the courses and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, the council shall, if it deems it necessary to take or use such lands for the purpose specified in such petition, cause notice of such application to be given to the owners or occupants of such land, which notice may be served personally, or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if any portion of such lands shall not be in the actual occupation of any person, and such notice has not been served upon the owner, then the council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in the official paper of the city, for four successive weeks, at least once in each week.

Appointment of jurors.

SECTION 39. Such notice shall state, that on a certain day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, applica-

tion will be made to the county judge of the county of Lincoln for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition. Should any of the lands proposed to be taken or used, belong to the county judge, the application shall be made to the sheriff of the county.

Duties of judge.

SECTION 40. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or sheriff, as the case may be, shall thereupon appoint as jurors, twelve reputable freeholders, residents of the city, but not residents of the ward in which such premises lie, nor interested in the result of such application. The said judge or sheriff shall thereupon issue his precept, directed to said jurors, requiring them, at some time therein specified, within thirty days from the date thereof, to view such premises, to be specified in said precept, and to make return under their hands to the council, whether in their judgment it is necessary to take or use said premises for the purpose specified in said application.

Disqualification of jurors.

SECTION 41. If any juror so appointed, shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or sheriff shall appoint another in his place, and a memorandum of such substitution shall be indorsed on the precept.

How to proceed.

SECTION 42. The said jurors, having first taken the oath hereinafter provided for, shall proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Report of proceedings.

SECTION 43. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take or use the premises in question for the public use; which said report, testimony and precept shall be returned to the council within the time limited therein.

In case it is unnecessary to take premises.

SECTION 44. Should the jurors report that it is necessary to take or use such premises, the coun-

cil shall, if it approves such report, enter an order among its proceedings confirming said report, and directing the same jurors to again view said premises at a specified time, for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and also what premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the council; provided, however, that in case of sewers and drains the said jurors need not view the premises to be benefited or assess the benefits thereon.

Estimate cost of buildings.

SECTION 45. If there should be any buildings standing, in whole or in part, upon the lands to be taken or used, the jurors, before proceeding to make their appraisements, shall first estimate and determine the whole value of the land, and secondly, the value of such buildings to remove, except in cases of sewers and drains.

Notice to be given.

SECTION 46. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested shall be given by publication in the official paper of the city, three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear on a day to be therein named, and give notice of their election to the council, either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building, at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the council may allow.

In case owner refuses to take building.

SECTION 47. If the owner refuses to take the building at the value to remove, or fails to give notice of his election as aforesaid within the time prescribed, the council shall have power to direct the sale of such building at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor, provided it shall be necessary to remove such buildings for the proper use of the lands so taken or used.

Jurors to examine premises.

SECTION 48. The said jurors, within the time limited, shall view and examine the premises proposed to be taken or used, and all such other premises as will in their judgment be benefited thereby; provided, however, that in case of sewers or drains the said jurors need not examine the lands benefited. After hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment and to determine and appraise to the owner or owners the value of the real estate so proposed to be taken or used, and the injury arising to them respectively in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom, for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings, if the property of the owners of such lands, as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

In case damages are greater than benefits.

SECTION 49. If the damages to any person be greater than the benefits received, or if the benefits be greater than the damages, in either case the jurors shall strike a balance and carry the differences forward to another column, so that the assessment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall, in any, case be collected of them or payable to them.

If they belong to different persons.

SECTION 50. If the lands or buildings belong to different persons, or be subject to lease, judgment, mortgage or other incumbrance, if there be any estate in it less than an estate in fee to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively from the proposed improvement.

Shall apportion and assess.

SECTION 51. Having ascertained the damages and expenses of the proposed improvements as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings upon the real estate by them deemed benefited in proportion to the benefits re-

sulting thereto from the proposed improvement as nearly as can be, and shall describe the real estate upon which their assessment may be made, and state the amount assessed upon each separate tract; provided, however, that when the lands are used only for the purpose of a sewer or a drain, the damages shall not be assessed upon the lands benefited, but shall be paid by the city as provided by law. The award of said jurors shall be signed by them and returned, together with the testimony taken, to the council within the time limited, in their order of appointment, and shall be final, unless appealed from in the manner hereinafter provided.

Damages awarded to be first paid.

SECTION 52. The land required to be taken or used for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the parties interested shall be paid or tendered to them or their agents, or, in case said parties or agents cannot be found or are unknown, deposited to their credit in some safe place of deposit to be determined by the council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

Covenants ceased.

SECTION 53. When the whole of any lot or tract of land or other premises under lease or other contract, or incumbrance, shall be taken or used by virtue of the city charter, all the covenants, contracts or liabilities relating to the same, or any part thereof shall, after the expiration of the time for appeal, as herein provided, respectively cease and be absolutely discharged.

Covenants released.

SECTION 54. When only part of the lot or tract of land or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrances shall be absolutely discharged as to the part thereof so taken or used, but shall remain valid as to the residue thereof;

and the rents, liens and payments due from, or on account of the same, shall be so appropriated that the part thereof justly and equitably payable for such residue, and no more, shall be paid or recoverable for, or in respect of the same.

Tender of damages.

SECTION 55. The damages assessed on each separate lot or tract shall be paid, or tendered, or deposited, as herein required, within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case, as to any lot or tract on which they are so unpaid, shall be void. The benefits so assessed, from the expiration of the time for appeal, shall become a lien upon the premises upon which they are assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments for city improvements are collected. The amount so collected shall be held by the city as a special fund for the payment of the damages aforesaid, and shall be paid out for that purpose and no other.

In case of infant.

SECTION 56. When any known owner of lands or tenements affected by any proceedings herein provided for, shall be an infant or labor under disability, the judge of the circuit court of Lincoln county, or the county judge may, upon the application of the council, or such party by his next friend, appoint a guardian for such party, and all notices required by the city charter shall be served upon such guardian in the same manner as if he were the party interested.

Jurors shall take an oath.

SECTION 57. The jurors herein provided for, shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Council may take an appeal.

SECTION 58. The council, or any party interested may, within twenty days from the return of the jurors to the council of the benefits and damages so assessed, appeal to the circuit court of Lincoln county from the decision of said jurors, so far as it affects the interests of said appellants. Notice

of such appeal shall be filed by the appellant with the clerk of said court within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct.

In case damages are increased.

SECTION 59. In case the total amount of damages and costs awarded by the jurors, and which formed the basis of their assessment, shall be increased by any proceedings subsequent to the return of said assessment to the council, and founded thereon, such additional sum shall, as soon as such proceedings are finally determined, be assessed by the city clerk, under the direction of the mayor and council, upon the land upon which the first assessment was made, in the same proportion as such first assessment, and shall be collected in the same manner. And in case such damages are not so increased, the costs of such appeal shall be taxed against the appellant and deducted from the damages recovered on such appeal.

Extension of grounds.

SECTION 60. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed, under the provisions above, the council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Vacation of streets.

SECTION 61. No street or alley, or part thereof, shall be vacated except upon the petition of the owners of three-fourths of the front upon such street or alley in the block in or along which such street or alley runs; but the boundaries of streets may be changed upon petition to the council by parties interested.

Changing names of streets.

SECTION 62. The council shall have power to change the name of any street and to vacate any plat or portion thereof that may be petitioned for by the proprietors of such plat, or any person interested therein; but no petition for such vacation shall be acted upon, unless notice of such application to the council shall have first been published in the official city paper, for at least two weeks prior to the meeting of the council.

Only directory.

SECTION 63. All the directions given in the foregoing sections from 37 to 62 inclusive, shall be deemed only directory, and no error, irregularity or informality of any of the proceedings thereunder, not affecting substantial justice, shall in any way affect the validity of the proceedings.

CITY IMPROVEMENTS.

Improvements.

SECTION 64. The council shall have power to order and contract for the making, grading, paving, macadamizing, repairing and cleaning of streets, alleys, public grounds, reservoirs, gutters, sewers, drains and sidewalks in the manner hereinafter mentioned, and direct and control the persons employed therein.

Surveying streets.

SECTION 65. The cost and expense of surveying streets, alleys, sidewalks, drains and sewers, and of estimating work thereon in the execution of any public improvement and of repairing streets, shall be charged to and payable by the city. The cost and expense of opening, grading and paving or macadamizing streets and alleys, and constructing or repairing sidewalks, shall be chargeable to, and payable by, the lots fronting on such street or alley, so that each lot or parcel of land shall pay for the work done between the front of such lot or tract of land and the center of such street or alley. Sewers and drains may be ordered by the council, and all costs and expenses, as well as the damages which shall be sustained by the owners of lands through which the same shall pass, shall be charged to and payable by the city.

Time to be fixed for making improvements.

SECTION 66. Whenever the council shall determine to make any public improvement, as authorized by the two preceding sections, it shall fix the time within which such work shall be done, and shall give notice by advertisement to be published once a week for three successive weeks in the official paper of the city, to the owners or occupants of the lots or parcels of land fronting on any street, alley or sidewalk ordered to be improved, requiring them to do the work mentioned in such notice within the time fixed by the council for the doing of the same, to be therein specified. If said work shall not be done within said time, the street commissioner shall immediately proceed to advertise and contract for doing the same at the expense of the lots upon which such work is chargeable. Proposals shall state a gross amount for doing the work in front of any lot, and the contract shall be awarded to the lowest responsible bidder. The council may direct the letting of such work, in whole or in part; all bids for doing the same to be approved by the mayor, who shall have power to reject any and all bids, and may

require such contractors to perform such contract within such time and under such conditions, and to give such security for the performance of such work as he shall direct; such contract shall be executed on the part of the city by the mayor, and countersigned by the city clerk; notice of the time and place of receiving bids under this section shall be published for ten days in the official paper of the city.

Paving streets, how done.

SECTION 67. Whenever the council shall require any street to be paved or macadamized, or any gutter to be constructed, it shall determine the manner in which the work shall be done, and of what material, and the street commissioner or such other person, or officer as the council may designate to have charge of the work, shall let a contract for doing the whole of such work. Public notice of the letting of such contract shall be given by advertisement in the official paper of the city, for at least twenty days, and the contract shall be awarded to some responsible bidder whose bid it shall deem most reasonable and proper. The cost of such paving or macadamizing, or of constructing such gutter, shall be chargeable to the lots fronting on the street, so that each lot or parcel of land shall bear its proportionate amount of the expense of such paving or macadamizing, or of constructing such gutter, according to its frontage on the street, but the expense of all engineering and grading necessary to be done to prepare a street for paving or macadamizing or the constructing of a gutter, shall be payable by the city.

In case no bids are received.

SECTION 68. In case no bids shall be received for the performance of any work required to be done by order of the council, it may cause such work to be done under the supervision of the street commissioner, or a committee of the council, and the expense for doing the same shall be apportioned and assessed to each lot, according to its frontage on the street, and the amount shall be collected in the manner provided for the collection of other special taxes.

Deep cuttings.

SECTION 69. Whenever the general interest of the city requires deep cutting or extraordinary filling in any street, or the building of sidewalks or grading or otherwise improving a street in front of any property, to an amount which may be excessively burdensome upon such property,

any person deeming himself aggrieved thereby may represent to the council in writing, within twenty days after the passage of the ordinance requiring the work to be done, that the expense of such improvement will exceed the proportion that should be justly and equitably charged upon the property assessed therefor; thereupon the council shall require the marshal to summon five freeholders, not residents of the ward, nor owners of, nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises, and if, in their opinion, the costs of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land, respectively, and to make a report thereof as soon as practicable, in writing, to the council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided in case such owners shall not do such work, and the remainder shall be paid by the city; provided, that should said jury find that said petitioners were not entitled to any division of the expense as assessed upon their lots or parcels of land, then the expense of all proceedings under this section shall be paid by said petitioners, and the council may require a bond for the payment of the same on the filing of the petition; provided, also that the petition of no owner, feeling himself aggrieved, shall be received unless the same shall be presented within twenty days after the publication of the notice requiring the work to be done; and provided further, that when it shall appear to the council that any such lands belong to non-residents, infants or persons under legal disability, who shall not be represented by any agent or guardian, or not be benefited by the making of streets in front of such lots or lands, to the amount of the costs and expenses thereof, it shall then be the duty of said council to cause to be summoned a jury as herein provided.

Stagnant waters.

SECTION 70. The council shall give written notice to all owners or occupants of lots upon which stagnant waters may be, which may be deemed injurious to health by reason thereof, to abate such

nuisance by draining or filling such lot within a reasonable time, to be specified in such notice, and if such nuisance shall not be abated or removed within the time so specified, the council shall cause the same to be abated and removed at the expense of the property upon which the same may exist.

Contractors shall receive a certificate on completion of work.

SECTION 71. After the completion and performance of any contract entered into by the street commissioner for work, chargeable to lots or lands by virtue of this charter, he shall give the contractor or contractors a certificate under his hand, stating therein the amount such contractor is entitled to, and the description of the lot or parcel of land upon which the same is chargeable; which said certificate may be transferred by indorsement thereon; and if the amount thereof shall not be paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and shall be assessed upon the said lots or parcels of land respectively, and collected therefrom for the use and benefit of the holder of such certificate, as other taxes on real estate are collected by virtue of the laws of this state, except that personal property shall not be seized or sold for the payment thereof, and if the notice to do the work required, shall have been given as herein provided, no informality or error in the proceedings shall vitiate such assessment. When the tax shall have been paid to the city treasurer, he shall pay over the amount, on order of the council to the persons entitled to receive it. But if the tax on such lot shall not be paid while the roll is in the hands of the city treasurer, it shall be returned to the county treasurer as delinquent, and be received by such treasurer and collected as other delinquent taxes are received and collected. Then the city shall issue a city order to the amount assessed against the lot in favor of the contractor, upon his application to the council so to do. But in no event where work is ordered to be done at the expense of any lot or parcel of land, shall either the city or county be held responsible for, or on account thereof, or of any proceeding for the collection of the pay therefor, except as hereinbefore provided.

Street commissioner.

SECTION 72. The council shall appoint a street commissioner for the city, or may, by resolution, require that the city marshal shall be such street

commissioner, who shall have all the powers and perform all the duties required of the street commissioner. The general powers and duties of the street commissioner shall be the same as those of overseers of highways in towns, except as otherwise herein provided. It shall be the duty of the street commissioner to see that all ordinances of the city relating to the streets, alleys, public grounds, reservoirs, gutters, sewers and water courses within the city, are duly observed and kept, and direct and control the persons employed thereon; and he shall have a general supervision over all work let by contract for the improvement of the streets or sidewalks, unless the council shall otherwise provide. Such street commissioner shall be under the direction and control of the council, and he shall make no orders or give any directions for the improvements of streets, unless such improvements have previously been authorized by the council, or a committee of the council acting under authority. Whenever any place shall occur in any street whereby the life or property of persons using the street becomes endangered, the street commissioner shall proceed at once to repair such street to a safe and passable condition.

Duties of street commissioner.

SECTION 73. It shall also be the duty of the street commissioner, whenever, in his opinion, any portion of a sidewalk shall be out of repair or in a dangerous condition, to serve a written notice upon the owner or occupant of the lot adjacent to which such defective sidewalk shall be, if a resident of said city, to immediately repair the same; and if said owner or occupant fail to repair the same forthwith, then, and in that case, the same may be repaired by the street commissioner, at the expense of the lot adjoining said defective sidewalk; provided, however, that the expense to be charged to any lot for any such repairs shall, in no case, exceed the sum of five dollars ($5), unless such repairs shall be made according to the provisions of the city charter; service of such written notice at the residence of the owner or occupant of such lot, upon a member of his family of suitable age and discretion, or with the agent of the owner, shall be deemed service upon such owner or occupant; and in case the owner of such lot is not a resident of said city or his residence is unknown, and such owner has no agent in said city, known to the street commissioner,

then, and in that case, it shall be the duty of the street commissioner to forthwith repair the same without notice to the owner of the adjoining lot, at the expense of such lot, as hereinbefore provided. The street commissioner shall also have the same powers and duties in relation to removing obstructions from any of the streets in said city, as town boards of supervisors have in removing obstructions from highways.

Removal of earth, etc., from street.

SECTION 74. Any owner of a lot may remove the earth, gravel or material of any kind from the street adjacent to his lot, prior to the grading of the same, at his pleasure, but in doing so, he shall not impair the usefulness of the street. The street commissioner, however, may take material from any point in the street to make ordinary and necessary repairs elsewhere upon such street. When any street shall have been ordered graded and the time for doing such work shall have expired without its having been performed, the city may take such material from the street in front of, or adjacent to, any lot as is not necessary for the purpose of bringing such street along such lot to the established grade, or may authorize any person to take it and use it upon any street of the city.

Term of office of street commissioner.

SECTION 75. The street commissioner shall hold his office for the term of one year, from the second Tuesday in March, of the year in which he is appointed, unless removed by the council, and shall, before entering on the duties of his office, give a bond to the city of Merrill, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than five hundred dollars ($500), conditioned to render an account to the council whenever required by law or the ordinances of said city, or by a vote of said council, to safely keep and account for, and deliver over, when lawfully required, all property of said city that may come into his hands; to use, disburse and pay over as required by law or the ordinances of said city, all moneys that may come into his possession as such officer, and to faithfully discharge the duties of said office.

Labor of prisoners.

SECTION 76. The council may, with the consent of the sheriff or of the board of supervisors of Lincoln county, use such labor of prisoners under sentence in jail, as the sheriff will furnish, in doing any public work in any part of the city.

Ornamental trees, how to be planted.

SECTION 77. The council shall have power to require the owner of any lot or grounds in said city, to set out ornamental or shade trees, in the street in front of the same, and to protect and preserve them, and, in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds, to pay the expense of of the same. It shall also have the power to determine the lines on which the trees shall be set, the places where they shall be set, the kind and size of the trees to be set, and the manner of protecting them, and for replanting them, when they have died or been so injured as to fail to answer the purpose for which they were set out, and to prohibit the setting out of any trees that may be regarded as nuisances, and to order their removal where they have hitherto been set out. It shall also have power to provide for and direct the trimming of shade trees to proper proportions, and to do all other needful acts as to them may seem just and proper, to give this section proper effect.

Control of funds.

SECTION 78. All funds in the city treasury, except school, state and county funds, shall be under the control of the council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasurer shall specify the purpose for which they are drawn. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

Contraction of debts against city.

SECTION 79. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same, in case it exceeds fifty dollars ($50), shall be entered by ayes and nays upon the journal of the council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by the city charter.

Penalties accruing.

SECTION 80. All forfeitures and penalties accruing to the city for a violation of the city charter, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund, except as otherwise provided by the city charter. No pen-

alty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of three-fourths of all the members of the common council.

Taxation of property.

SECTION 81. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessors elected under the city charter shall have and possess the same powers, and perform the same duties, as are, or may hereafter be, conferred upon and required of assessors of towns; provided, however, that the council may prescribe the form of assessment roll, and more fully define the duties of assessors.

City regarded as a town for equalization purposes.

SECTION 82. The county board of supervisors shall have the right to regard the city of Merrill as a town in equalizing the assessment roll of the several towns in Lincoln county, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Taxes may be levied.

SECTION 83. The said board of supervisors may levy a tax or taxes, as now is, or may hereafter be authorized by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law, in relation to town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Taxes, how computed.

SECTION 84. Upon receiving the statement of the amount of taxes so levied, the city clerk shall, upon a uniform percentage, compute and carry out upon said assessment roll, or a copy thereof, in one item opposite to each valuation in said assessment roll, the amount required to be raised upon such valuation to make the whole amount of taxes so certified, together with such city and other local taxes as are to be levied uniformly upon all the taxable property in the city; and all other taxes, if any, shall be entered in separate columns, opposite the valuation of the property, to be charged in a separate column,

under the head of "taxes unpaid for previous year." The city clerk shall enter opposite each tract of land so returned to him by the county clerk, the year for which such tax remains unpaid. The city clerk shall enter upon said roll a general statement showing the several amounts of taxes levied on the city or any part thereof, and for what purpose. Said roll, when so completed, shall be the tax roll of the city of Merrill, and shall be preserved by said clerk as a record in his office.

Tax roll to be preserved.

SECTION 85. The tax roll made out and preserved as aforesaid, shall be *prima facie* evidence in every court of record in this state, that every act or thing required by law to be done relating to assessing or levying of taxes, from the election of the officers to the completion of the tax roll inclusive, has been done regularly, correctly and as required by law.

Duplicate copies.

SECTION 86. Immediately after making out the tax roll aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant, signed by the mayor and clerk, and sealed with a corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax roll, in the manner provided by law; and the said clerk shall, on or before the first day of December, of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax roll preserved in his office.

Treasurer shall collect taxes.

SECTION 87. The city treasurer, upon the receipt of such duplicate tax roll, shall proceed to collect the same in like manner, and shall have like power, and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise herein provided. All taxes may be paid to the treasurer before the tenth day of January, in each year, without any addition thereto for treasurer's fees. To the taxes paid after the tenth day of January, three per cent. treasurer's fees shall be added, which fees, when collected shall be paid into the treasury of the city, for the benefit of the general fund.

Delinquent tax list.

SECTION 88. The said treasurer shall make out and return to the treasurer of Lincoln county, at the time required by law, in the case of towns, a list of all lands and lots upon which the taxes

have not been paid, and shall also settle with, and pay over all moneys properly payable to said county treasurer, in like manner as now is, or may hereafter be, required of town treasurers. The said treasurer shall also, by the same time, make out and deliver to the city clerk, a list of all delinquent personal property taxes for the same year. The county treasurer shall add the same interest, penalties or fees to such delinquent returns as are allowed, or required by law upon delinquent returns from the several towns.

Sale of delinquent lands.

SECTION 89. The county treasurer shall sell all delinquent lands and lots returned from the city of Merrill, at the same time and in the same manner, as other delinquent lands are sold in the county.

Special taxes on exempt property.

SECTION 90. All real estate, exempt from taxation, by the laws of this state, shall be subject to all special taxes for the building of sidewalks and improvements in streets in front of the same.

Directions only directory.

SECTION 91. All the directions hereby given for the assessing of lands and the levying, collection and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Purchase of fire engines.

SECTION 92. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, they shall specify the amount to be raised, and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election.

Current money.

SECTION 93. The city treasurer shall receive nothing but coin, or coin certificates, treasury notes, or national currency, for taxes, licenses or other dues of the city, and is prohibited from receiving county, city, school or other orders in payment of city dues.

Payment of orders.

SECTION 94. It shall be the duty of the council to always provide for the prompt payment of all orders drawn on the city treasury, and it shall have power to negotiate temporary loans, at the legal rate of interest, for the supplying of all funds to meet any deficiency in the treasury.

Lack of funds.

SECTION 95. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council.

Meeting of council.

SECTION 96. The council shall meet on Monday evening two weeks previous to the holding of the charter election, for the purpose of disposing of its unfinished business, and shall not thereafter, prior to the second Tuesday of March following, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of their term.

Surplus money

SECTION 97. All surplus moneys in the city treasury not belonging to the school fund may, by direction of the council, be temporarily used for the purpose of paying orders drawn on any other funds, but all funds so used shall be replaced.

Repair of bridges.

SECTION 98. A special tax not exceeding three thousand dollars ($3,000) in any one year, may be levied by the council whenever it shall appear necessary, for the building or repairing of bridges, or for any other necessary purpose, which taxes shall be collected as other taxes. Whenever the council shall recommend the issue of bonds for any lawful purpose and the people shall vote to issue such bonds, the same may be issued; provided such bonds shall not draw a greater rate of interest than seven (7) per cent., and shall not be negotiated for less than their face value.

Fire limits.

SECTION 99. The council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire-proof, shall be erected, repaired or moved, and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within said fire limits, to, or on, any other lot or lots within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have

been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. The council shall have no power to authorize wooden buildings to be moved into the fire limits, or from one point within the fire limits to another point within the fire limits.

Construction of chimneys, etc.

SECTION 100. The council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed, or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time, as it shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs and stairs or ladders leading to the same; to authorize the mayor, aldermen, supervisors, fire-wardens and other officers of the city, to keep away from the vicinity of a fire, all idle and suspected persons; to compel bystanders to aid in the extinguishment of fire, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires, and the protection of property at fires, as it may deem expedient, and enforce the foregoing provisions and the ordinances by suitable penalties.

Fire engine, hook and ladder companies.

SECTION 101. The council shall have power to authorize the formation of fire engine, hook and ladder and hose companies, provide for the due and proper regulations of the same, and to disband any such companies at any time, and prohibit their meetings as such, when disbanded; which companies shall be officered and governed by their own by-laws; provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistment. Every member in good standing of any such company shall be exempt from serving on juries and from poll tax, and from military duty, except in case of war, invasion or insurrection; and when-

ever a member of a fire, hook and ladder, or bucket and hose company, shall have served therein for for ten years, he shall be entitled to a discharge signed by the mayor, and shall thereafter be exempt as aforesaid.

Tax for fire purposes.

SECTION 102. The council shall have power to raise a tax each year, not exceeding five (5) mills on the dollar of the taxable property within said city, for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city; and the moneys arising therefrom shall be expended under the direction of the council for fire purposes.

Reservoirs.

SECTION 103. The council is hereby authorized and empowered to construct reservoirs throughout the city, and provide means for filling the same.

SCHOOLS.

Schools.

SECTION 104. All the district of county within the corporate limits of the city of Merrill shall be known and designated as school district number one (1), of the city of Merrill, for all purposes.

Commissioner of schools.

SECTION 105. The common council shall, at its first meeting, elect one commissioner of schools for each ward, three of whom, to be designated by the council, shall hold their offices for one year, and the remaining three shall hold for two years. Thereafter the council shall annually, at its first meeting after the charter election, elect from each ward, where the term of office of a school commissioner expires, a school commissioner for a term of two years; and the council may make appointments of school commissioners to fill vacancies which may occur from any cause.

Women eligible.

SECTION 106. Every woman, of the age of twenty-one (21) years and upwards, residing in the city shall be eligible to the office of superintendent of schools and to the board of education.

Board of education.

SECTION 107. The said school commissioners so appointed in conjunction with the superintendent of schools of said city of Merrill, shall constitute a board to be styled, "The board of education of the city of Merrill." Said board shall appoint and hold stated meetings, and a majority thereof shall constitute a quorum for the transaction of business. At the first meeting of said board in each

year, the members thereof, shall elect one of their number president, and whenever he shall be absent, a president pro tem may be appointed. The superintendent of schools shall be clerk of said board, whose compensation shall be fixed by the council. The said commissioners shall not receive any compensation for their services.

Duties of clerk.

SECTION 108. The clerk of said board shall keep a record of the proceedings thereof, and perform such other duties as the board may prescribe, which record, or a transcript thereof, certified by the president and clerk, shall be received in all courts and places as *prima facie* evidence of the facts therein set forth, and such records and all books and accounts of said board, shall, at all times, be subject to the inspection of the council, and of any committee thereof. The clerk of said board shall visit all schools in said city, at least once in each month, and report their condition to the board of education, with such suggestions for their improvement as he may deem proper. He may also make such suggestions to said board as he may deem necessary for improving and repairing school houses, grounds, fences and appurtenances thereunto belonging. When any repairs shall be ordered the board may employ some suitable person to superintend the making of such repairs, and such compensation may be paid for such services, as the board may deem just and reasonable.

Further duties of clerk.

SECTION 109. The clerk of said board shall in each year, and at the time and in the manner, now and hereafter to be required of town clerks, make and transmit to the state superintendent, a report in writing, which report shall be such as is now, or may hereafter be, required by law to be made annually by town clerks and transmitted to county superintendents. He shall also make and submit to the council, at least ten days before the annual election in each year, a report, showing the receipts and expenditures by the board, since the report made to the council, at its first meeting in July. Such account need only show the gross amount of receipts from each of the various sources, and gross amount of expenditures for each of the various purposes required to be reported. Such report shall include salaries of teachers, and all other expenses up to the second

Tuesday in March following, and all salaries or bills that will be due at that time, may be paid before making the report. The report shall also show the gross amount of receipts and expenditures since the preceding annual report. If the receipts or expenditures since the July report are more or less than estimated in the July and October reports, the report shall state the amount, more or less, and the report shall also state whether, and if any, how much more or less than estimated in July and October, will be needed for the entire school year, ending in June.

Control of board of education.

SECTION 110. The council of said city shall have power to pass such ordinances and regulations, as the board of education may report as necessary and proper for the protection and safe keeping, care and preservation of school houses in said city, and lots and appurtenances to the schools, and also to impose penalties for the violation thereof. All such penalties shall be collected in the same way that other penalties authorized to be imposed by said council, under the city charter, are collected.

In whom title rests.

SECTION 111. The title of the school houses, sites, furniture, apparatus and appurtenances, and all other property herein mentioned, shall be vested in the city of Merrill, and the same, while used or appropriated for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever; and the said city shall be able to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest, or devise, for the use of the schools of said city, whether the same shall be transferred in terms to said city by its proper style, or by any other designation, or to any person or persons, or body, for the use of said schools.

Treasurer to demand money from county, due city.

SECTION 112. The treasurer of said city is hereby authorized, empowered and directed to apply for, demand and receive from the county treasurer of Lincoln county, all moneys appropriated for the use of schools in said city, and all other moneys in possession of said county treasurer, at any time raised, appropriated or intended for the use and benefit of schools in said city, and the said county treasurer is hereby directed and required, on demand of the said city treasurer, to pay over to him the said moneys without delay or set-off, taking his receipts as such city treasurer therefor, and all

such moneys shall be placed to the credit of the school fund of said city. A statement of all school moneys so received shall forthwith be reported to the city superintendent of schools, by said treasurer.

SECTION 113. The said board of education shall have power and it shall be its duty:

Schools.

1st. To establish and organize such, and so many schools in said city, or the several wards thereof, as they shall deem necessary and expedient, and to alter and discontinue the same.

Care of school house.

2d. To have the custody and safe keeping of the school houses, out-houses, books, furniture and appendages, and to see that the ordinances and regulations of the council in relation thereto are observed.

Contract with teachers.

3d. To contract with and employ in behalf of the city, all teachers in such public schools of the city, who may be duly licensed to teach.

Superintendence of schools.

4th. To have in all respects the superintendence, supervision and management of all the public schools in said city, and from time to time adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils and their transfer from one school to another, and generally for the promotion of their good order, prosperity and utility.

Sale of school houses.

5th. Whenever, in the opinion of said board, it may be advisable to sell any of the school houses, lots or sites, or any of such school property belonging to the city, to report the same to the council.

Prepare and report ordinances.

6th. To prepare and report to the council such ordinances and regulations as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots, sites and appurtenances, and all the property belonging to the city, connected with or appertaining to the schools, and suggest proper penalties for the violation of such ordinances and regulations, and annually to determine and certify to the council, at its first meeting in October of each year, the amount of money, in their opinion, necessary or proper to be raised for school purposes, specifying the sum required for each of the purposes therein mentioned, and the reason therefor.

Repair of school houses.

7th. In the name of the city of Merrill, to contract for the repair of school houses and their ap-

purtenances, and for all things necessary or proper for the support and maintenance of schools in said city, and generally to have the entire and exclusive supervision and control of all property belonging to said city, used for said purposes. The board of education shall have the power, by and with the consent of the council of said city, to erect, construct, hire and purchase buildings suitable for school houses, buy and lease sites for school houses with the necessary grounds, and to furnish the school houses in said city with the necessary fixtures, furniture and apparatus. No greater amount shall be expended by the board of education in any year, under the provisions of this section, than shall be appropriated by the council for school purposes during such year.

Levy and collect school tax.

SECTION 114. The council of said city of Merrill shall have power to annually levy and collect a school tax, not exceeding one per cent., on all real and personal property of said city, to meet the expenses of erecting and repairing school houses, purchasing or hiring sites for school houses, and supporting and maintaining schools.

Audit of indebtedness.

SECTION 115. It shall be the duty of the board of education to audit each and every indebtedness of said city for school purposes, and to issue orders therefor, signed by the president and clerk of the board of education; and all moneys received by, or raised in the city of Merrill, for school purposes, shall be disbursed by the treasurer of said city upon the said orders of the president and clerk of the board of education, and in no other manner.

Non-residents may attend school.

SECTION 116. The said board of education shall have power to permit the children of persons, not residents of said city, to attend in either of the schools therein, under the care and control of said board, upon such terms as said board shall by resolution prescribe, fixing the tuition which shall be paid therefor. Permits to so enter the schools shall be issued by the city superintendent, but no such permit shall be issued which will interfere with the proper instruction of resident pupils. He shall report his action under this section to the board of education, as often as may be required, and he shall not issue any greater number of permits than may be authorized or sanctioned by the board of education. All permits shall specify the amount to be paid by such non-resi-

dent pupil, and no such pupil shall be admitted to any school of the city until he has exhibited the receipt of the city treasurer, that the amount specified in such permit has been paid to him. At the end of each term and at such other times as may be required by the board, every teacher who has admitted to the school under his charge any non-resident pupil under the city superintendent's permit, shall return to the board of education the permit, under which the pupil was admitted. All moneys so received for tuition shall become a part of the school fund of said city. It shall be the duty of the board of education to report to the council at its first meeting in the month of July of each year, the condition of the several schools of said city, and the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each and all of said schools since the previous report, and the estimated cost thereof to the time of their next succeeding report, as in this section required, specifying the items thereof under their appropriate heads, together with such other matters as the may deem proper, or the council may require; provided that nothing in this act contained shall be deemed to authorize said board of education or the council, or both, to appropriate, contract or expend for school purposes in any one year, any greater sum than is provided for in this charter in addition to the school moneys derived by said city from the state and county school funds, and such fines, forfeitures, penalties and tuition moneys as may properly belong to the city school fund, unless first authorized thereto by a vote of two-thirds of the legal voters of said city.

May borrow money.

SECTION 117. The council of the city of Merrill, on the application of the board of education, may borrow money for the erection and completion of school houses in said city, not exceeding in amount the sum of five thousand dollars ($5,000), and may issue the bonds of said city for the payment of the same, bearing an interest not exceeding seven (7) per cent. per annum, payable annually or semi-annually, and becoming due within ten years or less, as the council may by ordinance prescribe. In case said bonds are issued, the council of said city shall annually levy and collect a tax on the taxable property of said city, as other taxes

are levied and collected, sufficient to pay the interest and principal of said bonds as the same may become due; and the money thus raised shall be applied to the purpose for which it was raised and no other; provided, however, that no bonds issued in pursuance to this section shall be sold for less than their par value.

MISCELLANEOUS PROVISIONS.

Credit of city cannot be loaned.

SECTION 118. The credit of the city shall never be given or loaned in aid of any individual, association or corporation, except as provided by the general laws of this state.

Tax not to exceed one per cent.

SECTION 119. No tax for general city purposes shall be levied in any year exceeding one (1) per cent. of the assessed valuation of property in the city in that year.

Cannot borrow money to exceed the revenue.

SECTION 120. The city shall have no power to borrow money or contract any debt which cannot be paid out of the revenue of the fiscal year, which shall commence on the first day of December of of each year, except as otherwise herein provided.

Work exceeding one hundred dollars to be let by contract.

SECTION 121. All work for the city which shall be estimated by the council, or the proper officer of the city, to exceed one hundred dollars ($100) in amount shall be let by contract to the lowest responsible bidder, and due notice shall be given of the time and place of letting such contract. And the city printing shall be let by the year to the lowest responsible bidder; provided that said city shall never pay for publishing proceedings of the common council.

Extra compensation not allowed.

SECTION 122. No extra compensation shall be allowed to any officer, agent, servant or contractor after the service shall have been rendered, or the contract entered into, nor shall any compensation be paid to the mayor or any member of the common council for their services.

Shall settle annually.

SECTION 123. The council shall settle all just claims and demands against the city, and settle with the treasurer annually, and publish accounts of the receipts and expenditures of the city, for the information of the citizens, at least three days before the charter election in each year.

Violations of ordinances, how to proceed against.

SECTION 124. In all prosecutions for any violation of any of the provisions of the city charter, or any by-law or ordinance, the first process shall

be by a summons, unless oath be made for a warrant, as in other cases.

Execution to be issued.

SECTION 125. Execution shall issue forthwith on the rendition of the judgment, unless the same be stayed or appealed according to the laws of this state. The execution shall require the defendant in any such action, in case no goods or chattels, lands or tenements whereof the judgment can be collected, be found, to be imprisoned in the county jail of Lincoln county for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or the defendant be discharged by order of the council.

Shall not be incompetent.

SECTION 126. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Election shall not be invalidated.

SECTION 127. If any election by the people or council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize or to perform any other act, as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be had on any subsequent day, by order of the council; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city to be done by any officer, at a specified time, be not then done or performed, the council may appoint another time at which said acts may be done or performed.

Service of summons.

SECTION 128. When any suit or action shall be commenced against said city, the service of summons or process therein may be made by leaving a copy thereof with the mayor, or in the absence of the mayor from the city, or in case he cannot be found, by leaving such copy with the president of the council, or acting mayor, or city clerk, whose duty it shall be, forthwith, to inform the council thereof, or take such other proceedings as by the ordinances or resolutions of said council may be in such case provided.

No execution shall be awarded.

SECTION 129. When a judgment shall be recovered against the city of Merrill, or against any city or ward officer in an action prosecuted by, or against such officer in his name of office, where the same should be paid by the city, no execution

shall be awarded or issued upon such judgment, except as hereinafter provided. The person recovering such judgment may file a certified copy or transcript thereof with the city clerk, who shall lay the same before the council at its next regular meeting, and unless the council shall determine to appeal from such judgment, it may provide for the payment of the same out of the general fund. Unless so paid the amount of such judgment shall be added to, and included with other city taxes, by the clerk in making the next annual tax roll, and shall be collected as other city taxes, and when so collected shall be paid by the city treasurer to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if payment thereof be not made within sixty days after the city treasurer is required to make his return of taxes next after the rendition of such judgment, execution may be issued thereon upon the order of the court authorized to issue such execution, on special application therefor. No real or personal property of any inhabitant of said city, or of any individual or private corporation, shall be levied upon or sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

May lease, purchase or hold real estate.

SECTION 130. The said city may lease, purchase and hold real or personal estate sufficient for municipal purposes, and may sell and convey the same, and the same shall be free from taxation while owned by the city; provided, that no debt shall be incurred in any such purchase which cannot be paid out of the revenue of the fiscal year.

Does not repeal.

SECTION 131. No general law of this state, contravening the provisions of the city charter, shall be considered as repealing, amending, or modifying the same, unless such purpose be expressly set forth in such law.

LICENSE — BY WHOM SIGNED.

Licenses, by whom signed.

SECTION 132. Every license issued under the charter, or the ordinances of the city, shall be signed by the city clerk and sealed with the corporate seal, but no such license shall be issued by said clerk, until the person applying for the same, shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for

dealing in, selling or vending spirituous, vinous or malt liquors, unless the same shall have been authorized by the council, and the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the laws of this state, which shall be approved by the council; provided, that the sum to be paid for any such license, shall not be less than the amount fixed by the laws of this state, and that all licenses shall be granted to expire on the first day of April next following in each year.

USE OF COUNTY JAIL.

Use of jail.

SECTION 133. The use of the jail of Lincoln county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of such county, for whose custody, safe keeping and delivery, the said sheriff shall be responsible, as in other cases.

Plat of land to be made.

SECTION 134. The council of said city is hereby authorized and empowered to cause to be made, by some competent person, a plat of all pieces or parcels of land within said city, which are not embraced and described in any of the recorded plats of land in said city, which plats shall plainly define the boundary of each tract or lot of land designated thereon, and each tract or lot of land embraced in said plat shall be designated by a number placed thereon. The said plat, when completed, shall be certified to by the person making the same, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds, by the mayor and clerk of said city, and when so certified and acknowledged shall be recorded in the office of the register of deeds of Lincoln county.

Name of plat.

SECTION 135. The said plat shall be called and known as "Assessor's subdivision of lands in the city of Merrill," and for the purpose of assessment and taxation, it shall be deemed a sufficient description of any piece of land described and designated in said plat, to designate the same by its number as it appears on said plat, and any deed of any such tract or piece of land which may be executed pursuant to the laws of this state, by reason of the non-payment of any tax hereafter assessed, shall be as valid and effectual to pass the title to the lands therein described, as it would be

if said premises had been described by metes and bounds, and the said plat, or the record thereof, shall be received in evidence in all courts and places as correctly describing the several pieces or parcels of land therein designated and numbered.

Right of action.

SECTION 136. The city shall have a right of action against any of its officers, agents or employes, and against any person or corporation, to recover all damages which it has been compelled to pay on account of the act, default, tort or neglect of such officer, agent, employe, person or corporation.

Annual town meeting, where held.

SECTION 137. The next annual town meeting of the town of Merrill shall be held at such place as the town board of supervisors of said town shall designate, and the said town meeting, and all town meetings of said town, may be held in said city, and the town officers of said town may hold their respective offices in said city, unless otherwise directed by the proper town authorities.

Numbering of streets.

SECTION 138. The common council shall, as soon as possible, name or number all the streets within the city not already named or numbered, upon duly recorded plats, and such names or numbers shall in all courts and places, be a sufficient designation or description of such streets, and they shall cause to be made and filed in the office of the city clerk, a plat of the city, which plat shall contain the names and numbers of all streets in the city.

Joint meeting to divide indebtedness.

SECTION 139. As soon as possible after the next annual town meeting of the town of Merrill, there shall be a joint meeting of the town board of supervisors of the town of Merrill, and the common council of said city, at the council rooms in said city, at which meeting they shall ascertain the amount of the indebtedness of the town of Merrill, justly and legally chargeable to said town, and the amount of all judgments against said town, and shall divide and assume the same respectively, in such proportions as the aggregate amount of the last assessment roll of said town, shall bear to the aggregate amounts of the assessment of the property within the city limits, and within the town outside of the city limits, as shown by said assessment roll.

Adjustment of indebtedness.

SECTION 140. All the outstanding indebtedness of the town of Merrill, justly and legally chargea-

ble against said town, and all judgments against said town shall be borne and paid by said city and town respectively, in the aforesaid proportions; and all moneys and property belonging to the town of Merrill shall be divided between the town and city in the same proportion.

Issue of bonds.

SECTION 141. The common council of the city of Merrill shall have power to direct the issue of bonds of the city, not exceeding the amount limited by the constitution of this state, drawing not more than seven (7) per cent. interest, and payable at such times as they may deem proper, to be used in raising money to pay the city's just proportion of the indebtedness of the town of Merrill, and of the judgments against said town, and to provide for the necessary expenditures of the city government for one year; provided, that said bonds shall not be negotiated, or sold, or exchanged for such indebtedness at less than their face value.

Poor laws of state shall apply to city.

SECTION 142. The laws of this state for the relief and support of the poor in towns, shall apply to said city, and the council may make such rules and regulations, ordinances and provisions relative to the same as it shall deem proper, and may adopt the county system, in accordance with any resolution of the county board.

No action shall be maintained.

SECTION 143. No action upon any claim or cause of action, for which a money judgment only is demandable, except upon city orders, bonds and coupons, shall be maintained against the city of Merrill, except as hereinafter provided.

Statement to be made.

SECTION 144. A statement or bill of such claim shall first be made, sworn to and filed with the city clerk as provided in the next section.

What it shall specify.

SECTION 145. Such statement or bill shall distinctly specify each item, its nature, date and amount; or if the claim be incapable of being itemized, such statement shall plainly set forth the facts constituting the claim and the amount claimed. Such statement shall be verified by the affidavit of the claimant, his agent or attorney, and such affidavit shall state whether or not any part of such claim has heretofore been paid or presented to the common council for allowance.

Claim to be laid before council.

SECTION 146. The city clerk shall lay such claim before the common council at the next regular meeting thereafter, and the common council shall examine and audit every claim presented in the manner above required, at least, as soon as the

second regular meeting after the meeting at which such statement was first presented to it, and the city clerk shall make and annex to such statement a copy of all the items disallowed therein, or if disallowed in full, a statement of that fact. But no such claim or demand shall be received or filed by the city clerk, nor acted upon or considered by the common council, unless the statement or bill thereof shall have been made out, verified and filed in the manner above required.

Provided statement is not made out.

SECTION 147. If such statement or bill shall not be made out, verified and filed as above required, and the council shall for that reason refuse to consider the same, the city clerk shall write upon the back of such statement the words, "statement insufficient," and shall sign such indorsement, and at any time within sixty days after such refusal, the claimant may file a new statement, which shall be made out and verified as above required.

When claim shall be disallowed.

SECTION 148. When the claim of any person against the city shall be disallowed, in whole or in part by the council, such person may appeal to the circuit court of the county of Lincoln within ninety days after such disallowance, by serving a notice of such appeal upon the mayor or city clerk, and executing and filing with the city clerk a bond to the city, with sufficient sureties, to be approved by the city clerk, county judge of Lincoln county, or a court commissioner of said court, conditioned for the diligent prosecution of said appeal, and the payment of all costs and damages which may be adjudged against the appellant upon such appeal. The city clerk shall thereupon file with the clerk of the circuit court a duly certified copy of such claim, and of the record of its disallowance, and within twenty days after the filing of the appeal bond and the service of the notice of appeal, the city shall file with the clerk of the circuit court, its answer or demurrer to the claim, or its objection, thereto.

Appeal, where tried.

SECTION 149. The appeal shall be brought to trial and tried in the circuit court, as cases originally brought in said court.

If recovery shall not exceed amount allowed.

SECTION 150. If the recovery upon such appeal shall not exceed the amount allowed by the city council, exclusive of interest upon such allowance, the appellant shall pay the costs of such appeal, which costs shall be taxed before the entry of

judgment, and deducted from the amount recovered, and judgment shall be entered for the balance. And when the amount of costs exceeds the sum recovered, judgment shall be entered against the appellant and his sureties for such excess.

Determination to be final.

SECTION 151. The determination of the council disallowing in whole or in part, any claim, shall be final, unless appealed from; provided, that if the council shall refuse or neglect to act upon a claim duly made and presented, an action may be brought for the recovery of the same.

Easements, in whom vested.

SECTION 152. All easements and lands outside of the corporate limits of the city of Merrill, now held and owned by the town of Merrill, by dedication or otherwise, shall be and remain the property of said town, and all such easements and lands, now held and owned by said town, and situated within the corporate limits of the city of Merrill, as described in this charter shall be and are hereby vested in said city.

Use of school.

SECTION 153. School district number one of the city of Merrill, shall have the free use of all school houses, sites and appurtenances within the limits of said school district, and the old school district, as it shall be constituted after this act takes effect, shall have the free use of all school houses, sites, and appurtenances without the city limits until such time as a settlement can be made and a division of the property and indebtedness, under the statutes in such cases made and provided.

School officers.

SECTION 154. The school district officers of school district number one of the town of Merrill, shall continue and remain in office and act as the school board of said school district, and perform all the duties thereof, and may hold their offices and their school board meetings, in the city of Merrill, until the annual school meeting in the year 1883. It shall be their duty acting as such school board, to designate a proper and suitable place for holding the annual school meeting in such school district for the year 1883, and to give proper and suitable notices thereof. At the annual school meeting of said school district number one of the town of Merrill, in the year 1883, there shall be a full complement of school officers elected for said school district.

SECTION 155. The city of Merrill shall, from and after the third Tuesday in February, A. D. 1883,

be the owner in severalty of such proportion of the entire amount of the property, claims and demands then belonging to the town of Merrill, as is provided in and by section 140 of this act, except, when special provision as to such ownership is made by this act. And the said city of Merrill may, as soon as organized, or at any time thereafter, present a claim in the usual form, verified by its mayor or clerk, to the county board of supervisors of Lincoln county, for its proportion of any indebtedness that may upon any account be due, or claimed as due, from said county to the town of Merrill, and such claim shall be audited by said board of county supervisors as other claims, and shall be subject to appeal as other claims presented against counties.

SECTION 156. This act shall be considered a public act, and shall be construed favorably in all courts and places.

SECTION 157. This act shall take effect and be in force from and after its passage and publication.

Approved February 21, 1883.

[No. 59, S.] [Published February 26, 1883.]

CHAPTER 7.

AN ACT changing the time of holding charter elections in the city of Grand Rapids.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment.

SECTION 1. The city of Grand Rapids shall hereafter hold its charter elections annually, on the day fixed by law for holding town meetings. So much of section 2, of chapter 111, of the laws of Wisconsin for the year 1876, entitled, "An act to amend chapter 247, of private and local laws of 1869, entitled 'An act to incorporate the city of Grand Rapids,'" as is inconsistent with the provisions of this act, is hereby repealed.

SECTION 2. All acts and parts of acts contravening the provisions of this act, are hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage.

Approved February 21, 1883.

[No. 1, S.] [Published February 27, 1883.]

CHAPTER 8.

AN ACT to amend chapter 308, of the laws of 1882, entitled "an act to amend the charter of the city of Milwaukee, being chapter 184, of the laws of 1874, and the several acts amendatory thereof."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Weapons and contraband articles.

SECTION 1. Section 6, of chapter 308, of the laws of 1882, is hereby amended so as to read as follows: Section 6. Authority is hereby given to the common council of said city to provide by ordinance, for the sale, destruction or other disposition, of weapons and other contraband articles, taken from persons under arrest, that are now, or hereafter may be in possession of the chief of police, and also for the sale of all articles of personal property of whatever nature, which now, or hereafter may be in the custody of the chief of police, and not claimed by the owners thereof, for the period of six months after their seizure; and the proceeds of all articles so sold under such ordinance, shall be paid into the city treasury of the city of Milwaukee, to the credit of the general fund. Witness fees taxed for the testimony of any police officer, or policeman in any case, either criminal, or arising from violation of any city ordinance, as witness or interpreter, shall be paid into the general city fund of said city.

Repealed.

SECTION 2. Sections 7, 8, 9, 10 and 11, of said chapter 308, of the laws of 1882, are hereby repealed. All moneys collected or deducted from the salaries of police officers under said sections, shall be paid over and refunded to the several officers, who have paid the same into the city treasury, and who suffered deductions in their salaries respectively; each officer shall receive the exact amount by him paid into said treasury, or deducted from his salary, such payments to be made by the city treasurer, upon the order of the chief of police. All other moneys, paid to the credit of the Milwaukee police relief fund, shall be distributed in equal proportions to the chief of police and the members of the police force, under the order of the chief of police.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved February 24, 1883.

[No. 43, S.] [Published March 3, 1883.]

CHAPTER 23.

AN ACT relating to the city of Portage, and amendatory of chapter 132, laws of 1882.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amended.

SECTION 1. Section 58, of chapter 132, laws of 1882, is hereby amended by adding to said section the following: Whenever the boundaries of any street cannot, in the opinion of the council, be definitely ascertained, or are indefinite, uncertain or obscure, the council shall have power to define the boundaries of such street by ordinance, and shall set monuments showing the boundaries of the street as so established, and make a record thereof. At least thirty days before passing any such ordinance, the council shall cause stakes to be set showing the center of such street, as it is proposed to establish the same. If any lot owner shall inform the council in writing, within six months after the passage of an ordinance so establishing the boundaries of any street, that he is wronged thereby, and claims damages, stating the amount thereof, the council may award him such damages as it may deem just and equitable, which determination of the council allowing or disallowing such claim, in whole or in part, may be appealed from, in the manner provided for appeals from damages, awarded for laying out highways, by section 55, of the city charter, and the proceedings on such appeal in the circuit court, shall be such as are provided by said section 55; but in case no such claim shall be presented within six months after the passage of the ordinance, all lot owners on said street shall be deemed to have acquiesced in, and assented to the boundaries of such street, as so established, and thereafter shall not question the same.

Paving of streets.

SECTION 2. Section 65, of said chapter 132, is hereby amended so as to read as follows: Section 65. Whenever the council shall require any street to be paved or macadamized, or any gutter or curbing to be constructed, it shall determine the manner in which the work shall be done, and of what material, and the street commissioner, or such other person or officer as the council may designate to have charge of the work, shall let a contract, subject to the approval of the mayor, for

doing such work. Public notice of the letting of such contract, shall be given by advertisement in the official paper of the city, for at least twenty days, and the contract shall be awarded to some responsible bidder, whose bid shall be deemed most reasonable and proper. The cost of such paving or macadamizing, or of constructing such gutter or curbing, shall be chargeable to the lots fronting on the street; so that each lot or parcel of land shall bear its proportionate amount of the expense of such paving or macadamizing, or of constructing such gutter or curbing, according to its frontage on the street, but the expense of all engineering and grading necessary to be done, to prepare a street for paving or macadamizing, or the construction of a gutter, and all cost of supervision or inspection, shall be payable by the city; provided, however, that by vote of two-thirds of all the members of the council, any of the work provided for by this section, may be placed under the charge of a superintendent, who shall employ all the labor, and purchase all the material needed for such work, and keep an accurate account of all expenditures incurred in the construction of the work, and the cost shall be apportioned to each lot according to its frontage on the street, by such superintendent, and be certified by him to the city clerk, who shall call upon each property owner, or his agent, at least once, if a resident of the city, for his portion of such special assessment, and if not paid the amount shall be carried into the tax roll of the same year, as a special assessment against each such delinquent lot. In case any contractor shall fail to perform his contract, the council may declare the same forfeited, and the work may be in like manner, by vote of the council, placed under the charge of a superintendent, and be completed by him at the expense of the lots; and if, in the performance of such work by a superintendent, the cost shall exceed the contract price, the amount of such excess, and all other damages, may be recovered from the contractor in an action at law.

Approval of contract.

SECTION 3. Section 64, of said chapter 132, is hereby amended by striking out all after the word "direct," in the twenty-seventh line of said section, and inserting in lieu thereof the following: Such contract shall be executed on the part of the city by the street commissioner, and be approved

by the mayor; notice of the time and place of receiving bids, under this section, shall be published for at least ten days in the official paper of the city.

Repair of sidewalks.

SECTION 4. Section 72, of said chapter 132, is hereby amended so as to read as follows: Section 72. It shall also be the duty of the street commissioner, whenever, in his opinion, any portion of a sidewalk shall be out of repair, or in a dangerous condition, to serve a written notice on the owner or occupant of the lot in front of which such defective sidewalk shall be, if a resident of said city, to immediately repair the same, and if said owner or occupant shall fail to repair such sidewalk within forty-eight hours, the same may be repaired by the street commissioner at the expense of the lot in front of which such defective sidewalk shall be. Service of such written notice at the residence of the owner or occupant of such lot, upon a member of his family of suitable age and discretion, or with the agent of the owner, shall be deemed service upon such owner or occupant; and in case the owner of such lot is not a resident of the city, or his residence is unknown, and such owner has no agent in the city known to the street commissioner, then it shall be the duty of the street commissioner to forthwith repair the same without notice to the lot owner, at the expense of such lot as hereinbefore provided. The street commissioner shall also have the same powers and duties in relation to removing obstructions from any of the streets in said city, as town boards of supervisors have in removing obstructions from highways. The city shall not be liable to, or for, any damages arising or growing out of any sidewalks, streets, drains, sewers, gutters, ditches or bridge in said city, being in a dangerous or defective condition or out of repair, unless it be shown that previous to the happening of the same, the mayor of the city, street commissioner, or one of the aldermen of the ward in which the same is located, had knowledge thereof, and no knowledge of such condition of the same shall be presumed, unless the defect out of which the same occurred existed three weeks before such damages accrued; provided, however, that nothing herein contained shall be so construed as to mean that knowledge is to be presumed because such three weeks had elapsed.

SECTION 5. Section 140, of said chapter 132, is hereby amended by adding to said section the following: In the making of said plat there shall be an accompanying descriptive list, which shall be recorded in the office of the register of deeds and also in the city clerk's office. Each lot given a number on said plat shall be described in said descriptive list, with sufficient certainty to enable a surveyor to locate the same. Each tract of land which has a separate ownership, known to the mayor and clerk, shall be given a number, and any tract of land may be divided into two or more lots, if deemed advisable in the making of said plat. Amendments may be made to the plat at any time, by the mayor and clerk, by filing with the register of deeds a plat of the amendments, and an accompanying descriptive list, which said descriptive list, amending the plat, shall also be filed with the city clerk, and be recorded both by the register of deeds and the city clerk. The map and descriptive list thus amending the plat shall show in what manner any lot or lots is affected by the amendment. The major portion of any lot which is altered by the amendment shall retain the original number given to the lot, and a new number shall be given to the tract that may be detached. In describing any piece or parcel of land by the assessor in making the assessment roll, or in any deed, it shall not be necessary to refer to any amendments of the plat, but all such assessments or deeds wherein any parcel or tract of land is described as being according to the "assessor's plat," or "assessor's sub-division of lands," shall be construed and held to mean the "assessor's sub-division of lands," with its amendments, as it stood at the date of making such roll, deed or other instrument. Plat and descriptive list.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 1, 1883.

[No. 132, A.] [Published March 15, 1883.]

CHAPTER 53.

AN ACT to amend chapter 21, of the laws of 1882, entitled "an act to incorporate the city of Baraboo."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Electors.

SECTION 1. Section 5, of chapter 2, of said act is hereby amended so as to read as follows: "Section 5. All persons who are qualified electors of the state of Wisconsin, and entitled to vote at a general election, and who have resided in the city of Baraboo, ten days next preceding the election, shall be qualified electors at city elections, but nothing herein shall be construed as relating to any general election, and no registry law of the state shall apply to the elections under this act."

Street committee to take place of street commissioner, when.

SECTION 2. Section 10, of sub-chapter 3, of said chapter 21, of the laws of 1882 is hereby amended by adding to said section 10 the following: "Provided, that whenever the common council of said city shall so order, the street committee shall take the place and perform all the duties of the street commissioner, and the members of said street committee shall receive such pay therefor as the common council shall allow and provide."

License money.

SECTION 3. Section 1, of sub-chapter 5, of said chapter 21, is hereby amended by adding to said section 1 the following: "And all moneys collected for licenses of any nature or kind, issued by authority of this act, shall be paid into the city treasury, and become a part of the general fund of said city."

Poll tax.

SECTION 4. Section 23, of sub-chapter 9, of said chapter 21, is hereby amended so as to read as follows: Section 23. Every male inhabitant of the city of Baraboo, over twenty-one years of age and under fifty, except active members of the fire department, shall pay annually into the city treasury, the sum of one dollar and fifty cents as a poll tax. The assessor of the city of Baraboo shall make duplicate lists of all persons liable to pay said tax, and on or before the first Monday of July in each year, deliver one of said lists to the city clerk, and one to the city marshal. Such tax to be collected in the same manner as other city taxes. The moneys collected as above shall be paid to the city treasurer on demand, and shall go to the general fund of said city. The mayor,

city clerk and treasurer shall constitute a board, to determine the liability of any person to pay such tax; and all persons, claiming to be exempt from such tax, must apply to the city clerk, within twenty days after the demand or notice mentioned in this section. The city marshal shall receive for collecting said tax five per cent. on the first five hundred dollars ($500), and ten per cent. on all collected over five hundred dollars ($500).

SECTION 5. All, and any part of said chapter 21, of the laws of 1882, and of chapter 54, of the laws of 1882, conflicting or inconsistent with the provisions of this act, is hereby repealed.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved March 13, 1883.

[No. 85, A.] [Published March 15, 1883.]

CHAPTER 66.

AN ACT to repeal chapter 6, of chapter 89, of the laws of 1877, entitled, "an act to incorporate the city of Chilton," and to adopt the provisions of chapter 52, revised statutes in lieu thereof.

The people of the state of Wisconsin, represented in senate and assembly do enact as follows:

SECTION 1. The common council of the city of Chilton shall have the same power and authority to lay out, alter, widen or discontinue any street or highway within the limits of said city, that is now or may hereafter be conferred on the supervisors of towns in this state, and all streets, highways or alleys within the limits of said city hereafter laid out, altered or discontinued, shall be laid out, altered or discontinued by the common council of said city, under the provisions of chapter 52, of the revised statutes, and in all respects in the same manner as is provided in said chapter 52 for the laying out, altering or discontinuing highways in the towns of this state. Powers of council.

SECTION 2. Chapter 6, of chapter 89, of the laws of 1877, entitled "an act to incorporate the city of Chilton," is hereby repealed.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 13, 1883.

[470, A.] [Published March 14, 1883.]

CHAPTER 71.

AN ACT to amend the charter of the city of Ahnapee.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

General laws shall govern.

SECTION 1. In all cases when it shall become necessary and proper to do, or perform any act or thing within, or by the city of Ahnapee, and provision is not made therefor, in the charter of said city, the general laws of this state shall govern such proceedings, and shall be considered and taken as applicable to such city.

Sidewalks, how repaired or constructed.

SECTION 2. Sidewalks shall be constructed, reconstructed and repaired of such materials, of such width, in such manner, and in such time as the common council by ordinance, resolution or order shall direct, by and at the expense of the owners of any lot or piece of ground in front of which such sidewalk be ordered built, or repaired.

Provided owner neglects to repair.

SECTION 3. If such sidewalk shall not be constructed or repaired in the manner and within the time prescribed, the common council may cause the same to be done at the expense of the lot or lots adjoining such sidewalk, and the amount of the cost thereof shall be entered on the next tax roll and collected in the same manner as other taxes.

SECTION 4. This act shall take effect and be in force from and after its passage.

Approved March 13, 1883.

[No. 142 A.] [Published March 17, 1883.]

CHAPTER 77.

AN ACT to amend an act, entitled "an act to revise, consolidate and amend the charter of the city of Racine," approved August 8, 1848, and "the several acts amendatory thereof." Approved March 11, 1876, and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Boundaries defined.

SECTION 1. Section 3, of title 1, of chapter 313, of the laws of 1876, is hereby amended so that the same shall read as follows: Section 3. The said city shall be divided into wards, and the number and boundaries shall be as follows, until altered by the common council: The First ward

shall embrace all the territory south and east of the center line of Root river, and north of the center of Seventh street, and east of the center of Chippewa street. The Second ward shall embrace the territory bounded as follows: Commence at the intersection of the continuation of the center line of Seventh street with the east boundary line of the city; run thence west along the center of Seventh street to its intersection with College avenue; thence south along the center line of College avenue to the south line of section sixteen (16); thence west along said south line to the northwest corner of the east half (½) of the northwest quarter (¼) of section twenty-one (21); thence south to the city limits; and thence east to the east boundary line of city; and thence north to place of beginning. The Third ward shall embrace all that territory situated within the following boundaries: Commencing at the intersection of the center line of College avenue with the south line of section sixteen (16), run thence west on the south line of said section to its intersection with the center line of Center street; thence north along the center of Center street to the center of Root river; run thence easterly along the center of said river to the intersection with the center line of Chippewa street; run thence southerly along the center of Chippewa street to the center Seventh street; run thence east along the center of Seventh street to the intersection with the center line of College avenue, and thence south along the center of College avenue to the place of beginning. The Fourth ward shall embrace all that part of the territory of said city bounded as follows: Commence at the center of section nine (9) and run due east to the center line of the river, and then returning on said line to the center of section nine (9); run west along the south line of lot one (1) in the northwest quarter (¼) of said section, to the center of Douglas avenue; thence north along the center of Douglas avenue to its intersection with the center line of Prospect street; thence west along the center line of Prospect street to the center of Marquette street; thence north along the center line of Marquette street to the center line of St. Patrick street, and thence easterly along the center line of St. Patrick street to the east boundary line of the city; thence south along the east boundary line of said

city to the center line of Root river; thence westerly on said last named line to the center line of said section nine (9). The Fifth ward shall embrace all the territory north and west of the center line of Root river not embraced in the Fourth and Seventh wards. The Sixth ward shall embrace all that part of the territory of the city south of the center line of Root river not embraced by the First, Second and Third wards. The Seventh ward shall embrace all that part of the territory of the city bounded as follows: Commencing at the intersection of the center line of St. Patrick street with the east boundary line of said city; thence west along the center line of St. Patrick street to the center line of Marquette street; thence south along the center line of Marquette street to the center line of Albert street; thence west along the center line of Albert street to the west boundary line of the city; thence north on said west boundary line to the north boundary line of the city; thence east on the said north boundary line to the east boundary line of the city; thence southerly on said east boundary line to the place of beginning.

Elective, and appointive officers.

SECTION 2. Section 1, of title 2, of chapter 313, of the laws of 1876, as amended by chapter 180, of the laws of 1880, is hereby amended so that the same shall read as follows: Section 1. The elective officers of said city shall be a mayor, two aldermen from each ward, constituting a common council; a city treasurer, a city clerk who shall be *ex officio* comptroller, a city marshal, three assessors, two justices of the peace, and one supervisor from each ward to represent such ward in the county board of supervisors of Racine county; and the appointive officers shall be, one school commissioner from each ward, constituting a board of education; three health commissioners, constituting a board of health; a city attorney, a chief of police, a fire marshal, a superintendent of the poor, a harbor master, who shall be bridge tender until otherwise ordered by the common council; a city surveyor, and as many bridge tenders, firemen, constables, policemen and such other officers and agents as may be provided for by this act, or as the common council may determine to be necessary.

Justice of the peace, and his jurisdiction.

SECTION 3. Section 6, of title 2, of said chapter 313, is hereby amended so that the same shall read

as follows: Section 6. A justice of the peace shall be elected annually by the qualified electors of said city, for the term of two years, and until the election and qualification of his successor. The civil and criminal jurisdiction of said justice and the practice and procedure before him, shall be the same as is now, or may hereafter be prescribed by law, for justices of the peace elected in the towns. The justices of the peace now in office shall continue in office until the expiration of their respective terms.

Amendment.

SECTION 4. Section 9, of said title 2, is hereby amended by striking therefrom the first two sentences thereof, beginning with the words, "The aldermen," and ending with the words, "there resident."

Election of aldermen.

SECTION 5 Said title 2, is further hereby amended by adding thereto a new section, which shall read as follows: Section 18. At the annual municipal election in April, 1883, two aldermen shall be elected by the qualified voters of the Seventh ward, who shall hold their offices one year and two years respectively, from the third Tuesday in April, 1883, and one supervisor who shall hold his office for one year; thereafter the same ward officers shall be elected in said Seventh ward as in the other wards of said city. Inspectors and clerks of election in said Seventh ward, shall be appointed at least five days before said municipal election in the manner provided by law. Hereafter all inspectors and clerks of election, in said city. shall receive for their services as follows: Inspectors each, three dollars ($3) per day for services upon the board of registry; Inspectors and clerks each, four dollars ($4) per day for services upon election days.

Tax commissioner to be appointed, and his duties.

SECTION 6. Title 3, of said chapter 313, is hereby amended by inserting therein the following new sections, viz: Section 10 a. On the third Tuesday in April, 1884, or at any time thereafter, and prior to the first day of May, 1884, and at the same time in every third year thereafter, the mayor shall appoint, subject to confirmation by the common council, one tax commissioner, who shall hold his office for the term of three years from the first day of May, in the year of his appointment, and until his successor is appointed and qualified, and thereafter no assessor shall be elected in any year in which a tax commissioner is to be appointed for

a full term. Section 10 b. Said tax commissioner shall have an office, which shall be kept open during the usual business hours of each business day during the term of his office; and shall, in suitable books provided for the purpose, keep a record of all lots, blocks, fractional lots or parcels or land contained in said city, with the assessed value of each in separate columns, together with the assessed value of the improvements thereon, and the name of the owner of each, and the street and number of his residence as far as possible, during each and every year of the term of his office; and shall also keep a record of the names of all persons liable to assessment for personal property, during each year of the term of his office, with the amount assessed to each person; and as far as possible shall cause to be entered upon said record, in a suitable column, opposite the name of such person so assessed, an accurate description of the class of such personal property, whether bonds, stock, mortgages or money, notes, accounts, choses in action of any kind, or merchandise, manufacturers' stock, capital invested in business, household goods, vessels, pianos, horses and carriages, sewing machines, watches, etc., and any and all other personal property, taxable under the laws of Wisconsin. Said tax commissioner shall gather such information with regard to any property, real or personal, properly taxable in said city, and lay such information before the assessors, and shall perform such other duties as the common council shall prescribe. Section 10 c. He shall also keep a record of all vessels registered in the books of the custom house at the port of Milwaukee, with the names of the owners residing in Racine, and the amount of the interest held by each said owner, together with all other information in relation thereto, which may be serviceable in making an assessment of the vessel property owned, in whole or in part, by any resident of the city of Racine. Section 10d. Said tax commissioner shall also keep on file in his office, all plats or copies of plats of all lots, blocks, additions, divisions and subdivisions of lots or lands, which shall be at any time furnished to him by the common council; and it shall be the duty of the common council to furnish copies of all such plats, recorded in the office of the register of deeds of

Racine county. He shall also keep all other matters or information which may be valuable in making an assessment of the real and personal property in the said city of Racine. He shall also cause to be copied in a book provided for that purpose, all complaints made in writing at any time in said office of the said tax commissioner, of excessive or erroneous assessments, either of real or personal estate, which said complaints shall be considered and disposed of, by the board of assessors at their first meeting thereafter, in the order of their entry, unless otherwise ordered by said board. The said tax commissioner shall be building inspector of said city, without extra compensation, and shall perform such duties in that capacity as the council may prescribe by ordinance. The said tax commissioner shall also be an assessor of said city, without extra compensation, either as assessor or as member of the board of equalization, and shall have the same powers and duties in that capacity as the assessors elected by the people; provided, however, that none of the provisions of this act relating to the appointment, powers and duties of tax commissioner, shall be of any force or effect unless the legal voters of the city of Racine, at the municipal election in April, 1883, shall, by a majority of the votes cast on that subject, decide in favor of the creation of the office of tax commissioner. The form of the ballot and the manner of conducting such election shall be under the direction of the common council.

Hay, hay scales etc.

SECTION 7. Subdivision 37, of section 3, of title 4, of said chapter 313, is hereby amended so that the same shall read as follows: 37. To regulate the weighing and sale of hay and straw, and the places and manner thereof; to appoint official weighers, and establish and maintain a hay and wood market, and city scales therefor, and empower such weighers to charge and collect reasonable charges for such weighing, and to prescribe suitable fines and penalties for the sale, or offering for sale, of hay or straw in violation of such regulations; to regulate the cutting and sale of ice, and to restrain the sale of such as is impure; also to regulate the sale and measuring of wood, and the weighing and selling of coal and lime, and the places and manner thereof, and to appoint suita-

ble persons to superintend and conduct the same, and to define their duties.

Amendment.

SECTION 8. Subdivision 63, of section 3, of said title 4, is hereby amended so that the same shall read as follows: 63. To alter the boundaries of the wards of said city, and to increase the number thereof, and to provide for the election of proper ward officers for such new wards.

Private property for public use.

SECTION 9. Section 1, of title 5, of said chapter 313, is hereby amended so as to read as follows: Section 1. The common council shall have the power to take private property for public use, and to lay out, open, establish, enlarge or widen public squares, grounds, streets and alleys, and to alter the boundaries or course of any public street, alley or ground, by taking certain lands and vacating other lands. The following shall be the manner of proceeding: Any ten or more freeholders, residing in any ward, may, by petition and plat accompanying the same, represent to the common council, that it is necessary to take certain land within the ward where such petitioners reside, for public use, for the purpose of laying out, opening, enlarging, extending or widening any public square, ground, street or alley, or that it is necessary to take certain lands and vacate other lands, for the purpose of altering the boundaries or course of any public street, alley or ground, setting forth in such petition and plat, the courses and distances, and metes and bounds of the lands proposed to be taken and vacated, and praying that such lands may be taken for such purposes, as authorized by law. Every person signing such petition, shall make and annex thereto, his affidavit, that he is a resident and freeholder in said ward, and thereupon such person shall be deemed to be such freeholder and resident, and such petition shall be held as valid, and of the same effect as if every such person were such resident and freeholder, although it should afterwards appear that any of such affiants were not such residents and freeholders. Persons in actual possession of lands, under the agreement for the purchase thereof, shall be held to be such freeholders, within the meaning and for the purposes of this act. All petitions for the opening or altering of streets, alleys or grounds, shall be presented between the first day of January, and the first day of June in each year. The procedure, as laid down in said chapter

313, is hereby amended so as to be applicable to a proceeding in which lands are to be taken, and streets or alleys vacated, in the same proceeding.

Amendment.

SECTION 10. Section 12, of title 5, of said chapter 313, is hereby amended by adding at the end thereof, the following: The common council of said city may within twenty days from the filing of said report of said commissioner, with the said city clerk, appeal therefrom to the circuit court of Racine county, and the same shall be disposed of in the same manner as other appeals, provided for in said section, except the said city shall not be required to give a bond, as provided in other appeals.

Filing copies of plat.

SECTION 11. Section 21, of said title 5, is hereby amended by adding thereto the following paragraphs: In case of the approval of any plat by the common council, it shall be the duty of the proprietor thereof, to immediately file an exact copy of said plat with the certificates attached in the office of the city clerk. In case of failure by the proprietor to file such copy, he shall be deemed guilty of an offence and shall be liable to the same forfeitures and penalties as herein above prescribed, in case of failure to present the original plat for approval.

Notice to be given to all persons interested.

SECTION 12. Section 7, of title 6, of said chapter 313, is hereby amended so that the same shall read as follows: Section 7. As soon as any assessment of benefits or damages, or of both, shall be made as in the preceding sections of this chapter provided, the common council shall give notice to all parties interested, by advertisement in the official paper of said city, that such assessment has been made and is ready for inspection in its office, and that the same will be open for review and correction by the common council, at one regular meeting of the common council, held not less than ten days after the first publication of such notice, that all persons interested will then be heard by the council in objection to such assessment, and generally in the matter of such review and correction. It shall be sufficient to state in such notice in brief, what such assessment has been made for, and in what locality, and no further notice or publication of such assessment shall be necessary. At the meeting mentioned in such notice the council shall hear objections and evidence, and it shall have power to review,

modify and correct such assessment in such manner as it shall deem just, at any time during such review.

Construction of breakwaters, piling, piers etc.

SECTION 13. Section 18, of title 6, of said chapter 313, as amended by chapter 133, of the laws of 1882, is hereby amended so that the same shall read as follows: Section 18. The common council may cause the construction of breakwaters, parallel piling, sheet piling, piers or such other protections as may be planned or devised for the purpose of protecting the shores of said city against the encroachments of Lake Michigan, and defray the costs thereof, by levying city and ward taxes and special assessments upon real estate deemed to be specially benefited by such protection; and whenever lots, or lands, or streets, are being washed away or encroached upon by said lake, the common council may cause the construction of such protections as may be necessary to prevent such washing away or encroachments, in the manner hereinafter provided, no petition shall be required to authorize the construction of any such protection. Whenever it shall be deemed necessary to construct any of the protections named in this section, the common council shall first cause plans and specifications, and an estimate of the cost thereof to be made and filed with the city clerk. After the adoption of such plans and specifications, and after the cost of such work shall have been so ascertained, the common council shall direct application to be made for the appointment of three special commissioners, to determine the amounts to be charged as special assessments against any and every lot or parcel of land benefited by such proposed protections; also to determine the amount to be charged to the ward in which such protection is proposed to be made, and also to determine the amount to be charged to the city at large, for such proposed protions; provided, that in the discretion of the common council, the amount chargeable to the ward aforesaid, and the amounts chargeable to the city as aforesaid, may be appropriated from the ward fund in which such protection is made, and from the general city fund, respectively; further provided, that the general appropriation from the city fund or city tax for any one year for such purpose, shall not exceed the sum of two thousand dollars ($2,000). And further provided, that

an equal amount shall have been appropriated from the ward fund, or levied and raised by special ward tax on the ward benefited, and an amount equal to both of said sums shall have been raised by special assessments on property benefited. Such application shall be made and such commissioners shall be appointed, and shall make their assessments of benefits and their report thereof, in all respects in like manner and with like effect, as provided in section 8, of title 5, of this act, with regard to commissioners for the assessment of benefits and damages in the opening of streets. Residents of the ward in which such protections are to be made, shall, however, be eligible to appointment as such commissioners if not directly interested in the proposed improvements, and in all cases, one of such commissioners, and but one, shall be a resident of such ward. The county judge, or court commissioner, the city marshal, or other officer acting in his place, and the special commissioners appointed under this section, shall receive like compensation, as provided for by section 7, title 5.

Street commissioner.

SECTION 14. Section 26, of said title 6, is hereby amended by adding at the end thereof the following paragraphs: The common council may, if they deem it advisable, in any year, appoint a general street commissioner, or superintendent of street work, for the whole city, whose powers, duties and salary may be defined by ordinance. The term of office of such commissioner, if appointed, shall be one year, and no longer.

Fire limits.

SECTION 15. Section 1, of title 11, of said chapter 313, is hereby amended so that the same shall read as follows: Section 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of other materials, that shall not be considered fire-proof, shall not be erected, placed, raised, enlarged or repaired; and to direct that all and any buildings, within the limits prescribed, shall be made and constructed of fire-proof materials; and to prohibit the repairing or rebuilding of wooden buildings, within the fire limits, and to prevent the moving of any wooden building into, or within such limits; and to declare all buildings erected, repaired, rebuilt, raised or moved within said limits, not constructed of such materials, or in

such manner as the council may prescribe, to be nuisances, and to provide for the summary abatement thereof; also to regulate and prescribe proper fire-escapes in and upon all factories, theaters, hotels and other buildings in said city, of more than one story in height, and punish the violation of such regulations.

Fixing salaries.

SECTION 16. Section 1, of title 12, of said chapter 313, is hereby amended so that the same shall read as follows: Section 1. Salaries shall be fixed by the common council to the several and respective officers, of the said city mentioned in this section, for all services during the term of their service, not to exceed the following rates per annum, to-wit: To the city clerk and ex-officio comptroller, twelve hundred dollars ($1,200). To the city treasurer, for all services by him to be rendered, fifteen hundred dollars ($1,500). To the city attorney, eight hundred dollars ($800). The assessors, each, three hundred dollars ($300). To the fire marshal of the fire department, five hundred dollars ($500). To the assistant fire marshal, two hundred dollars ($200). To the engineers of fire steamers employed for full time, seven hundred and twenty dollars ($720). To the engineers of all other fire steamers, four hundred dollars ($400). To the tax commissioner, if such officer be created, twelve hundred dollars ($1,200). To the chief of police, eight hundred dollars ($800). To the superintendent of poor, four hundred dollars ($400). To the harbor master, acting also as bridge-tender, five hundred and fifty dollars ($550). To bridge-tenders, five hundred dollars ($500) each. To the city marshal, two hundred dollars ($200). All salaries of officers and others which are not fixed absolutely by this act, shall be fixed by the common council by ordinance subject to the limitations herein prescribed. The salaries and allowance above mentioned, and which shall be fixed as aforesaid by the common council, shall be accepted by such officers and others respectively, as their sole compensation for the services for which such salaries are allowed.

Power to levy tax for salaries defined.

SECTION 17. Section 1, of title 13, of said chapter 313, is hereby amended so that the same shall read as follows: Section 1. The common council shall annually, on or before the first Tuesday of August, levy a tax upon all the taxable property of said city, sufficient to pay the salaries of the officers of

said city, as in this act provided, and to meet the interest on the corporate debt, and to provide for the sinking fund, as provided by law, and for the purposes hereinafter named, to-wit:

1. For school purposes, including repairs of school houses and incidental expenses, a sum not exceeding thirty thousand dollars ($30,000), the sums received from the state school fund, from tuition fees, and all other sources, to be in addition to such fund.

2. A sum not exceeding four thousand dollars ($4,000) for harbor purposes.

3. A sum not exceeding forty-five hundred dollars ($4,500), for the repair of bridges and building and repairing of culverts.

4. A sum not exceeding fifteen thousand dollars ($15,000) for the fire department. The salaries of all officers or employes of the fire department, shall be paid from the fund named in this subdivision, and no part thereof shall be paid from the salary fund.

5. A sum not exceeding six thousand dollars ($6,000) for a contingent fund; all the delinquent taxes and remittances shall be charged against the contingent fund.

6. A sum not exceeding three thousand dollars ($3,000) for the support of the poor of said city.

7. A sum not exceeding five thousand dollars ($5,000) for a police fund.

8. A sum not exceeding two thousand dollars ($2,000) may be annually levied on the taxable property of each ward, for the repair of streets, lighting of streets, and other ward purposes.

All moneys received from fines or penalties under the ordinances or regulations of said city, and all moneys received from licences, shall be credited to the poor fund, from which such sums as shall not be required for the support of the poor, may be transferred to the contingent fund when necessary. Said poor fund shall be disbursed from the city treasury under such ordinances and regulations as the council may prescribe, and no part of the same shall be transferred to the county treasury. In addition thereto, and to the special levies and assessments authorized by this act, or as may be hereafter authorized, the common council may, at such annual levy, by a vote of three-fourths of all its members, whenever it shall have been de- Poor fund.

termined to be necessary to erect any new school house or other public building, or to purchase real estate for such purposes, or to make any other urgent improvement or purchase, levy an additional sum for said contingent fund, not exceeding one and one-half mills on the dollar of the valuation of taxable property of the city, as returned by the assessors for such year. The common council may also levy, for the purpose of building a city hall, thirty thousand dollars ($30,000) which may be levied in installments, if desired, and may also levy, four thousand dollars ($4,000) for the purpose of paying for the additional fire steamer already purchased; the last two levies above named shall be made but once.

Clerk to make abstract of tax roll.

SECTION 18. Sections 1, 2, 3 and 4, of title 14, of said chapter 313, are hereby amended so that the same shall read as follows: Section 1. After the completion of the assessment and correction of the assessment roll returned by the assessors, the city clerk shall, within the time required by law, make an aggregate abstract of the assessment and statistics required by law, and return the same to the county clerk of Racine county in pursuance with the general law; he shall also prepare a tax roll, in the usual form, with appropriate columns and headings for general city, ward, special, school and state and county taxes, on which he shall carry out opposite to the description of each parcel of land, and to the names of each person taxed, the appropriate proportion of the general city, ward and special taxes and assessments levied by the common council. To such tax roll shall be annexed a warrant, signed by the mayor and city clerk, and sealed with the corporate seal of the city, directed to the city treasurer, commanding him to collect the taxes and assessments therein specified. Such tax roll shall be delivered to the city treasurer on or before September 1, in each year, and before being delivered to said treasurer, shall be compared by the clerk with the corrected assessment roll; and he shall append to it his certificate, that the same has been so compared by him, and that the said assessment roll and the whole thereof, has been copied by him into said tax roll; and said tax roll, when so certified, shall be *prima facie* evidence in any court, that the lands and persons therein named, were subject to

taxation, and that the assessment was just and equal. Section 2. The city treasurer, upon receipt of the tax roll, shall proceed to collect the taxes and assessments thereafter, and said taxes and assessments shall be a lien upon the real estate so taxed from the time of the receipt of said roll by the treasurer. Section 3. The city treasurer shall, upon the recept of the tax roll, publish a notice in the official paper of the city, and in such other local paper as he shall deem proper, specifying that all taxes and assessments, whether upon real or personal property in said tax roll, shall be paid before the fifteenth day of October, in each year, and that all taxes and assessments not paid by that day, will be collected by the seizure and sale of the goods and chattels of the person, company or corporation charged with such taxes and assessments, and the publication of such notice shall be deemed and taken to be a demand, and failure to pay the taxes and assessments within the time limited in such notice, shall be deemed a refusal to pay the same. The city treasurer shall charge no fees for collection of taxes and assessments paid to, and collected by him, prior to the fifteenth day of October, of each year, and shall charge and collect five (5) per cent. upon all taxes and assessments remaining upaid on the fifteenth day of October of each year. Upon the receipt by the city clerk, from the county clerk, of the certified apportionment of state, county and school taxes, the said city clerk shall carry out upon the same roll, opposite to the description of each parcel of land, and to the name of each person taxed, the appropriate proportion of the state, county and school taxes, and also such further special assessments as may be directed by the common council, and shall redeliver said roll to the city treasurer with a new warrant for collection, and the city treasurer shall proceed to collect said state, county and school taxes and special assessments, in the same manner and within the same time, as is required by law of town treasurers. Section 4. At the expiration of either of the times specified for the collection of taxes, the city treasurer, shall proceed to collect such taxes and assessments remaining unpaid, by seizure and sale of the goods and chattels of the respective persons or corporations, and he shall have the same power to collect such taxes and assessments, and to levy the same by distress and sale

City treasurer to collect.

Notice to be published in official paper, and manner of collecting defined.

of the goods and chattels of the person owing such taxes, and to sue for the same, as is, or may be given to town treasurers. And the city treasurer, may make a list of such delinquent taxes on real and personal property, and attach and affix thereto his warrant directed to the chief of police of the city, requiring and commanding him to collect such taxes and assessments, of the persons or corporations liable to pay the same, by the seizure and sale of their goods and chattels. The chief of police shall proceed to collect such taxes and assessments as directed, and make return of the warrant, within the time to be specified in such warrant, to the city treasurer, and the chief of police shall have the same powers to collect and levy such taxes by distress and sale, as is given to the city treasurer, and to his return, he shall annex his affidavit, that after diligent inquiry he has been unable to discover any goods or chattels belonging to persons or corporations charged with such taxes, as shall then remain unpaid on his tax list. The chief of police, shall receive as compensation, five (5) per cent. collection fee, upon all taxes by him collected, and in addition thereto, in case of a levy and sale, such further fees as are allowed to constables upon a levy and execution. The chief of police, before receiving such tax list, shall execute to the city treasurer, a bond in such penal sum as the treasurer, shall require, conditioned that he will account for and pay over to the treasurer, all taxes by him collected, and make due return of his warrant whenever required.

Meetings of board of education.

SECTION 19. Section 3, of title 15, of said chapter 313, is hereby amended so that the same shall read as follows: Section 3. The board of education shall hold such regular stated meetings, and other meetings, as they shall determine, and the president of said board shall call special meetings when requested, by at least two members of said board, and a majority of all the members of the board shall constitute a quorum. The board of education shall elect from its members, a president, to preside at its meetings, and in his absence, a president *pro tempore* may be appointed, who for the time being, shall possess all the authority of the president. Said board shall appoint a clerk whose salary shall not exceed one hundred and fifty dollars ($150), and it shall be his duty, under the direction of the board, to keep a record

of the proceedings thereof, in a book to be provided for that purpose. He shall also enter therein, or in a book especially provided for that purpose, copies of all official reports made by the board, or the superintendent. He shall keep and preserve all papers, books and records, or other property belonging to his office and deliver the same to his successor, or to the common council. The board of education shall employ some suitable person to take the school census of children in the city over the age of four, and under the age of twenty years, and shall pay reasonable compensation for such service.

Artesian well districts.

SECTION 20. Title 5, of said chapter 313, is hereby amended by adding thereto a new section immediately following section 26 a, which shall read as follows: Section 26 b. Said common council is also authorized to divide any part of said city, into artesian well districts, irrespective of ward lines, and to construct an artesian well in any of said districts, such well to cost not exceeding three thousand dollars ($3,000), and defray the expense of the construction and maintenance thereof, by special tax upon taxable property in said district; provided, however, that the question as to whether such well shall be constructed, shall first have been submitted to a vote of the legal voters of said district, at a special election to be called and held under direction of the council, and shall have been decided in the affirmative, by a majority of votes cast.

Respecting artesian wells.

SECTION 21. Section 35, of said title 6, is hereby amended by adding thereto the following paragraphs: In case of the construction of an artesian well by, and for, any artesian well district, whose lines do not coincide with ward lines, the deficiency between the amount of special assessments levied and the amount expended for such work may be defrayed by special tax upon the taxable property of such district; and in case it is deemed advisable to rent water from private wells to supply any part of said district, such rental may be defrayed by like special tax.

Construction of drains and sewers.

SECTION 22. Title 6, of said chapter 313, is further hereby amended by adding at the end of said title the following new sections: Section 36. The common council shall prescribe the location, arrangement, form, materials and construction of every drain and sewer, for every lot in the city

emptying into the public sewers, and shall determine the manner and plan of the connection of the same; the work of construction shall be in all cases subject to the superintendence and control of said council, and shall be executed strictly in compliance with their orders; but the cost of such private sewers shall not be included in the estimate of the cost of the general plan of sewerage in any district, and shall be charged upon the lot or lots for the benefit of which such private sewers shall be constructed; and no private sewer or drain shall be connected with any public sewer unless permission shall first have been given by such officer or officers as the council may designate. The common council may, by ordinance, prescribe proper punishments and penalties for the violation of any rules and regulations made under the provisions of this section. Section 37. Whenever the common council shall order the paving or repaving of any street in the city of Racine, in which water and gas mains and sewers or either of them, shall have been previously laid and constructed, they may also cause water and gas service pipes and house drains, to be first laid in such street, at the cost of the property fronting such street, from the main sewer and water and gas mains in such street, to the curb line on either side of the street, at such intervals as they shall determine to be necessary, along the whole length of such paved street, except at street and alley crossings; and the said council shall thereupon give notice to the owners or occupants of the property adjoining such paved street, by publication thereof in the official paper, and by service of such notice on the owner or occupant of such real estate, if any, at least ten days before such work is required to be done, requiring them to do such work opposite their respective lots, according to a plan and specification to be before prepared and on file in the office of said council, showing the location and size, and the kind and quality of materials, of such lateral sewers or drains, and water and gas service pipe; and if such owners or occupants shall refuse or neglect to do the same, before the paving or repairing of said street, so ordered, and within ten days after the service of such notice, the said council may procure the same to be done, and charge and assess the expense thereof to the lots or parts of lots

fronting upon such work, in the manner provided in and by section sixteen of this title; and the same shall be levied and collected as other special assessments are levied and collected in said city.

Estimates to be submitted by committees.

Section 38. The common council is hereby authorized to divide said city into proper sewerage districts, and levy a special tax for sewerage purposes upon the taxable property of said district, which shall constitute a general sewerage fund for said district; and the same shall be used for the purpose of defraying deficiencies between the total cost of constructing sewers in said district, and the amount of the special assessments therefor. The special assessments made against private property for the construction of a public sewer, shall in no case exceed the sum of eighty-five (85) cents per foot front, upon each side of the street.

Sewerage districts.

SECTION 23. Title 4, of said chapter 313, is hereby amended by adding a new section thereto, which shall read as follows: Section 10. At the first regular meeting of the common council in July in each year, the several council committees on fire, bridges, paupers, harbor, printing and police, and the board of education, shall present to the council, estimates of the money necessary for their respective departments for the ensuing year, which, estimates shall be considered by the council in making the annual tax levy; and the finance committee shall report the amounts, in their opinion, necessary to be raised at the annual tax levy, at least one regular meeting in advance of said levy.

Repealed.

SECTION 24. All acts and parts of acts inconsistent with, or repugnant to any of the provisions of this act are hereby repealed.

SECTION 25. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1883.

[No. 130, A.] [Published March 19, 1883.]

CHAPTER 78.

AN act to amend the fourth subdivision of section 23, of chapter 7, and chapters 2 and 9, of chapter 221, of the laws of 1882, entitled "an act to reduce the act incorporating the city of Janesville and the several acts amendatory thereof, into one act, and to amend the same."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment.

SECTION 1. The fourth subdivision of section 23 of chapter 7, of chapter 221, of the laws of 1882, is hereby amended by inserting after the word "alderman" and before the word "shall," in line twelve, of said fourth subdivision, the words "of the ward or the street commissioner," and by striking out the word "resident" where it occurs in line twelve of said fourth subdivision, and by inserting after the word "owners," and before the word "of" in line thirteen of said fourth subdivision, the words, "or agent," and by adding to said fourth subdivision after the word "contract," the following: "and the expenses of such work shall be collected in the manner provided in this chapter for the collection of special assessments," so that said fourth subdivision of chapter 7, of chapter 221, of the laws of 1882, when so amended shall read as follows: Fourth. In case the work shall be the construction, repairing, relaying or replanking any sidewalk, each lot or parcel of land fronting thereon, shall be assessed with its just proportion of the expense of such work. The work specified in this subdivision may be ordered by the common council, on the written application of the street commissioner, or of either of the aldermen of the ward in which the proposed work is situated, at any regular meeting of said council, after filing with the city clerk a specification of the work proposed. After said work shall have been ordered by said common council, the alderman of the ward, or the street commissioner, shall give notice to the owner or owners or agent of the several lots or parcels of land fronting thereon, requiring such owner or owners to perform the work proposed in front of his or their respective lots or parcels of land, according to said specifications, within twenty days from the service of such notice, and in default thereof, that said work will be done by contract

without publication; and in case such owner or owners shall neglect to do said work within said twenty days, said aldermen shall proceed to have such work done by contract, and the expense of such work, shall be collected in the manner provided in this chapter for the collection of special assessments.

SECTION 2. Section 3, of chapter 2, of said chapter 221, of the laws of 1882, is hereby amended by inserting after the word "treasurer," and before the word "and," in line three in said section 3, the words "street commissioner." Amendment.

SECTION 3. Section 4, of said chapter 2, of chapter 221, of the laws of 1882, is hereby amended by striking out the words "a street commissioner," where they occur in lines one and two in said section 4, and by striking out the words, "both or either of them," where they occur in line three of said section 4, and inserting in lieu thereof, the word "him," and by striking out the word "each," where it occurs in line five of said section 4, and inserting in lieu thereof the word "him," and by striking out the word "they," where it occurs in line five of said section 4, and inserting in lieu thereof the word "he," and by adding to said section the words "and said council shall fix the salary of the street commissioner, at a regular meeting in the month of March, for the ensuing year," so that said section 4, when amended shall read as follows: Section 4. The common council may appoint a city marshal, and remove or displace him at its pleasure, and they shall fix the rate of compensation to be paid to him, and he shall not receive any greater compensation than that so fixed, and said council shall fix the salary of the street commissioner, at the regular meeting in the month of March, for the ensuing year." Amendment.

SECTION 4. Section 3, of chapter 2, of chapter 221, of the laws of 1882, is hereby amended by striking out the words "and a school commissioner at large," where they occur in lines seven and eight, in said section 3, of said chapter 2, and by striking out the word "three," where it occurs in line eight, and inserting in lieu thereof the word "his," and by striking out the words "respective offices," where they occur in lines eight and nine, in said section 3, and inserting in lieu thereof the word "officer." Amendment.

SECTION 5. Section 1, of chapter 9, of chapter Amendment.

221, of the laws of 1882, is hereby amended by striking out the following words, where they occur in lines four, five and six, of said section 1, to-wit: "There shall also be elected every two years by the qualified electors of said city, one school commissioner at large for said city."

Amendment.

SECTION 6. Section 2, of said chapter 9, of said chapter 221, of the laws of 1882, is hereby amended by striking out the words "together with the school commissioner at large," where they occur in line two, of said section 2, in said chapter 9.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1883.

[No. 267, A.] [Published March 20, 1883.]

CHAPTER 80.

AN ACT to incorporate the city of Hartford.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CORPORATE POWERS.

Corporate powers.

SECTION 1. All that district of country hereinafter described, from, and after the first Tuesday in April, 1883, shall be a city by the name of Hartford; and the people now inhabiting, and those who shall hereafter inhabit the district of country hereinafter described, shall be a municipal corporation by the name of "the city of Hartford," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession; shall be capable of contracting and being contracted with; suing and being sued; pleading and being impleaded in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

BOUNDARIES.

Boundaries.

SECTION 2. All of the following described territory, lying and being in sections sixteen (16), seventeen (17), twenty (20); and twenty-one (21), in the town of Hartford, Washington county, and

state of Wisconsin, bounded as follows, to-wit: Commencing at the north one-quarter (¼) section post, of section twenty (20), aforesaid, running thence east on the section line thirty-two (32) chains; thence north one (1) degree, east twelve and fifty-hundredths (12 and 50–100) chains; thence east eight (8) chains to the section line between sections sixteen (16) and seventeen (17) aforesaid; thence south one (1) degree, west two and fifty-hundredths (2 and 50–100) chains; thence south eighty-nine and three-fourths (89 and ¾) degrees, east nine (9) chains; thence south one (1) degree, west ten (10) chains to the section line between sections sixteen (16) and twenty-one (21); thence south eighty-nine and three-fourths (89 and ¾) degrees, east thirty and ninety-hundredths (30 and 90–100) chains, to the north one-quarter (¼) post of section number twenty-one (21); thence south along the quarter section line, twenty (20) chains; thence south eighty-nine and three-fourths (89 and ¾) degrees, east fifteen (15) chains, to the northwest corner of St. Killian's Catholic cemetery grounds; thence south along the west line of said cemetery grounds; nine and seventy-five hundredths (9 and 75–100) chains, to the center of Chicago, Milwaukee & St. Paul railroad; thence westerly along said railroad, fifteen and nineteen-hundredths (15 and 19–100) chains to the quarter line of section twenty-one (21); thence south along said quarter section line eleven and seventy-eight hundredths (11 and 78–100) chains; to the north bank of the Rubicon River; thence south fifty and one-half (50 and ½) degrees, east five and fifteen-hundredths (5 and 15–100) chains; thence south nine and fifty-hundredths (9 and 50–100) chains; thence north seventy-five (75) degrees; west three and ninety-one, hundredths (3 and 91–100) chains to the quarter section line of section number twenty-one (21); thence south along said quarter section line twenty-six and sixty eight-hundredths (26 and 68–100) chains to the south one-quarter (¼) post of section number twenty-one (21); thence west on the section line eighty (80) chains, to the south quarter (¼) post of section twenty (20); thence north on the center one-fourth (¼) line of section twenty (20), eighty (80) chains, to the place of beginning, shall be included in and constitute the limits and boundaries of the city of Hartford.

WARDS.

Ward boundaries.

SECTION 3. The city shall be divided into two wards, as follows: The first ward shall be all that portion of said city lying south of the Rubicon river; the second ward shall be all that portion of said city lying north of the Rubicon river.

Corporate authority.

SECTION 4. The corporate authorities of said city, shall be vested in one principal officer, styled the mayor; and a board of aldermen, consisting of two members from each ward, who, with the mayor, shall constitute and be denominated the common council, and in such other officers as are hereinafter mentioned, or may be created, under this act.

ELECTIONS.

Elections.

SECTION 5. The annual election for city officers, shall be held on the first Tuesday in April in each year, at such places as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon, to five o'clock in the afternoon; provided, however, that an adjournment may be had for one hour from twelve M. to one o'clock P. M., if due notice thereof be given at the opening of the polls. Six days' previous notice of such elections shall be given, signed by the clerk, stating the time and place of holding the same, and of the officers to be elected, which notice shall be posted in three public places in the city.

Elective officers.

SECTION 6. The elective officers of said city shall be a mayor, a treasurer, an assessor, a clerk, a city marshal, one constable, a street commissioner and two justices of the peace, from the city at large, and two aldermen and one supervisor from each ward. The treasurer, assessor, marshal, clerk, justices of the peace and constable, shall be qualified voters and residents of the city of Hartford; and the mayor, aldermen and supervisors shall be qualified electors and freeholders in the city of Hartford. All the other officers, necessary for the proper management of the affairs of said city, shall be appointed by the common council. All elective officers, except justices of the peace, unless otherwise provided, shall hold their offices for one year, and until their successors are elected and qualified; provided, however, that the common council shall have power, for cause, to

Appointed officers.

expel any of its own members, except the mayor, and to remove from office any officer or agent, under the city government, due notice in writing being first given to the officer complained of. The justices of the peace shall hold their offices for two years, and until their successors are elected and qualified.

In case of vacancy.

SECTION 7. Whenever a vacancy shall occur in the office of mayor, or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after such vacancy shall occur; any vacancy in any other office, shall be filled by the common council. The person elected or appointed to fill any vacancy shall hold his office, and discharge the duties thereof, for the unexpired term, and with the same rights and subject to the same liabilities, as the person whose office he shall be elected or appointed to fill.

Votes for all officers shall be by ballot.

SECTION 8. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office, shall receive an equal and the highest number of votes for the same office, the election shall be determined by casting lots in presence of the common council, and in such manner as they shall direct.

Qualified electors.

SECTION 9. All persons who are qualified electors of the state of Wisconsin and entitled to vote at a general election, and who are actual residents of the city of Hartford, shall be entitled to vote for any officer to be elected, and be deemed qualified electors at city elections.

First election, when held.

SECTION 10. The first city election for said city of Hartford, for the election of city officers, shall be held in the respective wards of said city on the first Tuesday in April, 1883; the election for the First ward, shall be held at the building north of the postoffice in said ward, lately occupied by R. S. Reuland as an office, and the election for the Second ward, shall be held at the hook and ladder company's building in said ward. At the time of opening the polls at each ward, the electors present shall choose *viva voce*, from the qualified electors present, three inspectors of election, and two clerks of election, and the persons so chosen to act as inspectors and clerks, shall, before entering upon the duties of their offices, take and subscribe the oath required of inspectors and clerks

of general elections. Six days' previous notice of the time and place of holding such first elections, shall be given, signed by the town clerk of the town of Hartford, which notice shall be posted in three public places in said city.

Illegal voting, challenging votes etc.

SECTION 11. If either of the inspectors of election at any charter election shall suspect that any person offering to vote does not possess the requisite qualifications, or, if any such vote shall be challenged by an elector, the inspector before receiving the vote of any such person, shall require him to take the following oath: "You do solemnly swear (or affirm) that you are twenty-one years old; that you are a citizen of the United States (or have declared your intention to become a citizen conformably to the laws of the United States on the subject of naturalization); that you have resided in the state of Wisconsin one year next preceding this election; and that you are an actual resident within this ward, and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." Which oath any member of the board of inspectors is hereby authorized to administer, and if the person so offering to vote shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter, shall vote at any election, or shall vote more than once at any one election, he shall forfeit and pay a sum not exceeding two hundred dollars ($200), nor less than twenty-five dollars ($25). It shall be the duty of the inspectors of election, to keep a list of the names of all persons whose votes may be challenged and who shall swear in their votes, which list shall be filed with the city clerk. The penalty for any unlawful conduct of clerks or inspectors of election, shall be the same as that provided by statute of this state for similar conduct at any general election.

Votes, how counted.

SECTION 12. When the polls of any election shall be finally closed, the inspectors shall proceed to count and canvass the votes, one box being completed before another is opened, and shall make a return of the number of votes for each and every office, and the number of votes for each and every person, for each

and every office, and shall declare the result and who are elected as aldermen and supervisors; and they shall deliver such return to the city clerk immediately after such election, who shall lay the same before the common council, which shall declare the result of the same; provided, however, that at the first election under this charter, the said two boards of inspectors, shall, after canvassing the votes in their respective wards and declaring the result, meet together and decide and declare the result, and make a statement thereof under their hands, which said statement shall be filed in the office of the town clerk for the town of Hartford, within three days after such election. In all cases of election or appointment of any person to office, the common council shall file with the clerk, a certificate signed by at least a majority of them, giving the name of the person elected or appointed, and the time for which he was so elected or appointed, and the clerk shall record such certificate in a book to be provided for that purpose. Whenever a justice of the peace or city marshal (shall) be elected, the clerk shall forthwith give notice thereof, in writing, to the clerk of the circuit court for Washington county, giving both the names and terms for which elected, and upon the election of mayor or treasurer, the clerk shall give like notice to the county clerk for said county, and those county officers, upon receiving such notice, shall file the same in their respective offices.

SPECIAL ELECTIONS.

SECTION 13. Special elections to fill vacancies, or for other purpose, shall be held and conducted in the same manner, and upon the same notice, and the returns thereof shall be made in the same manner and form as regular elections, and within such time as may be provided by the common council; provided, however, that after the first election of officers under this charter, the aldermen and supervisors for the respective wards shall constitute the board of inspectors for such wards, and may choose one of their number chairman, and any two electors of such wards, as clerks of election; but this provision shall not apply to general elections, nor to charter elections at which judges of courts of record are to be elected, but such elections shall be conducted in the same

Special elections, how conducted.

manner as such judicial elections; provided, that the voters of the city of Hartford, shall be entitled to cast their votes in the judicial election to be held on the first Tuesday in April, 1883, at the voting place in the town of Hartford.

What is deemed a vacation in office.

SECTION 14. Any officer removing from the city, or any officer who shall neglect or refuse for ten days after his election or appointment, to qualify, and enter upon the discharge of his duties, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

Terms of office.

SECTION 15. The term of every officer elected under this act, shall commence on the second Tuesday in April, of the year for which, and in which, he shall be elected.

First charter election.

SECTION 16. The annual election of officers under the provisions of this act, shall be held on the first Tuesday in April. The election of justices of the peace, shall be held at the same time and place, and one justice shall be elected each year, for the term of two years, and the justices of the peace now residing within said city of Hartford, shall hold their offices until their terms expire. The justices of the peace for the town of Hartford may, if they so elect, hold their offices within said city, but such justices shall have no jurisdiction of actions brought under any provision of this charter; provided, however, that if any cause be removed from either of the city justices under any provision of law, and the other city justice shall be disqualified or unable to try the same, the nearest town justice, otherwise qualified to try such case, shall hear and determine the same.

Justices of the peace.

In case there is a failure to elect.

SECTION 17. Should there be a failure to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being first given.

Shall take and subscribe an oath.

SECTION 18. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same with the city clerk. The treasurer, clerk, marshal and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Hartford, a bond with two sureties, to be approved by the common coun-

cil, or a majority thereof; and said common council may, from time to time, require new and additional bonds, and remove any officer refusing or neglecting to give the same.

Duties of mayor.

SECTION 19. The mayor, when present, shall preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all executive offiers of the city discharge their respective duties. The mayor shall be the chief executive officer of the city, and the head of the police of the city; and in case of riot and other disturbances, or apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary. The mayor shall have a seat and vote in the common council, and shall give the common council such information and recommend such measures, as he may deem proper and advantageous to the city. The common council shall, at its regular meeting after its election, choose one of the aldermen as president of the board of aldermen, who, in the absence of the mayor, shall act as mayor and have and possess all the rights and privileges of such officer, and be subject to all the liabilities thereof, during the absence of the mayor, and when acting as such shall be styled "acting mayor." In the absence of both mayor and president, the common council may choose one of its number to preside.

Supervisors on county board.

SECTION 20. The supervisors shall represent their respective wards in the county board of supervisors, and also act as members of the board of inspectors of election in their respective wards at charter elections. No supervisors shall receive any compensation from the city for any of his services.

Duties of clerk.

SECTION 21. The city clerk shall perform all the duties required of him by law, and the ordinances of the city. He shall be keeper of the books, records and papers, and the corporate seal of the city, and the records of the proceedings of the council, and shall possess the same power that town clerks possess by law, to issue transcripts from the records of his office; and they shall, when certified by him, be received in all courts in like manner and effect. He shall perform the same duties in regard to common schools in said city, that are by

the general laws imposed on town clerks. He shall draw and countersign all orders on the treasurer, and keep a record of the same. He shall file in his office all chattel mortgages left with him to be filed, and the renewals, thereof, receiving the same fees allowed to town clerks therefor, and the said mortgages and renewals shall be as valid and lawful as when filed in the office of the town clerk; and the said clerk shall possess authority to administer oaths. He shall receive such compensation as the common council shall provide by ordinance or resolution.

Jurisdiction of justices of the peace.

SECTION 22. The justices of the peace elected under this act, or who hold over, shall have the same and equal jurisdiction, and perform all and like duties of justices of the peace in towns, under the general laws of the state of Wisconsin, and shall be subject to the same liabilities, and have in addition thereto, jurisdiction of all offenses against the provisions of this charter, and the ordinances and police regulations of the city, and shall qualify in the same manner as provided by the general laws of this state, except that the official bond or agreement required to be given by them, shall be approved by the common council of said city.

Duties of treasurer.

SECTION 23. The city treasurer shall perform all the duties required of him by law; collect all city, county and state taxes, and pay over all moneys in his hands according to law; he shall keep in a proper book an account of all moneys received, and of all moneys paid out by him, and the same shall at all times be open to the inspection of the voters of the city; he shall make reports quarterly, and render an itemized account to the common council of all sums received, when and by whom the same were paid, and also of all moneys by him paid out. All fines and penalties imposed for violation of any city ordinance, resolution, by-law or regulation, and all license moneys, including license moneys for the sale of intoxicating drinks, shall belong to said city and shall be paid into the treasury thereof, and be part of the general fund. All moneys raised, received, recovered or collected by means of any tax, license, penalty, forfeiture, fine, or otherwise belonging to said city under the authority of this act, shall be paid into the treasury of the city, and shall not be drawn therefrom, except by an order

issued by order of the common council, and signed by the mayor or acting mayor, and countersigned by the city clerk. The treasurer shall have the same power, and be subject to the same laws and liabilities, and governed by the same laws, as treasurers of towns in the state, except as changed by this charter, but he shall receive no other fees, except the compensation hereinafter provided.

Duties of marshal.

SECTION 24. The marshal shall perform such duties as shall be prescribed by the common council, for the preservation of the peace, and collection of license moneys and fines. He shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city, or law of this state, may pursue and serve the same in any part of this state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend with or without warrant, any person in the act of committing any offense against any ordinance of said city, or the laws of this state, and within reasonable time bring such person before competent authority, for examination or trial, and for such service he shall receive such fees, as are allowed by law to constables for like services in this state; provided, that if said marshal perform any labor by direction of the common council or required by law, for which no fees are allowed, he shall receive such compensation as the common council shall determine. He shall have power to appoint one or more deputies, subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties. Such deputies shall also take and subscribe the proper oath of office, which will be filed in the office of the city clerk, and when duly qualified as aforesaid, such deputies shall possess all the powers and authorities, and be subject to the same liabilities as the marshal.

Penalty for not delivering to successor.

SECTION 25. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor

in office, all property, books, papers and effects, belonging to said city pertaining to the office, he shall forfeit and pay to the use of the city, one hundred dollars ($100), besides all damages caused by his neglect or refusal to deliver over the same, and such successor may recover possession of such books, papers and effects in the manner prescribed by the law in this state.

No mayor or alderman shall be party to any job or contract.

SECTION 26. No mayor or alderman shall be a party to, or interested in any job or contract with the city, and any job or contract in which they, or either of them may be so interested, shall be null and void, and in case any money has been paid on such contract, the city may sue for, and recover back, the amount so paid from the parties to such contract, and the mayor or aldermen interested in the same.

Officers of the peace.

SECTION 27. The mayor, each and every alderman, justice of the peace, marshal, deputy marshal, policeman, watchman and constable of said city, and the sheriff of Washington county and his deputies, shall be officers of the peace, and may command the peace, and suppress in a summary manner all riotous or disorderly behavior within the limits of said city; and, for that purpose may command the assistance of all bystanders, and if any person, bystander, or private citizen shall refuse to aid in maintaining the peace when so required, every such person so refusing, shall forfeit and pay a fine of not less than five dollars ($5) nor more than fifty dollars ($50).

Justices shall pay over all fines.

SECTION 28. Every justice of the peace shall account for and pay over to the treasurer of said city, all fines and penalties collected by him, and belonging to said city, within ten days after receiving the same, and take his receipt for the same in his docket. Said justices shall be entitled to receive, in all cases had before them, in which the city is interested, the same fees as are provided by law for justices of the peace of the several towns of this state in similar cases.

Duties of assessor.

SECTION 29. The assessor shall assess the real and personal property of said city, at the time and in the manner provided for assessing in the towns of this state, and shall perform all other duties prescribed and directed by this act for him to perform, and he shall receive as compensation therefor fifty dollars ($50) a year.

DUTIES OF STREET COMMISSIONER.

Street commissioner and his duties.

SECTION 30. It shall be the duty of the street commissioner, to see that all ordinances of the city relating to the obstruction and cleaning or closing of sidewalks, crosswalks, streets, bridges, alleys, public grounds, gutters, sewers and water in said city are duly observed and kept, and he shall have the general supervision over all grading, paving, graveling, planking, repairing and cleaning streets, bridges, alleys, public grounds and gutters, and such other duties as the ordinances of said city may prescribe, subject to the order of the common council, and shall receive therefor, such compensation as the common council shall prescribe.

COMMON COUNCIL.

What constitutes the common council.

SECTION 31. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services. The style of all ordinances shall be, "The common council of the city of Hartford do ordain," etc. A majority of the members of the common council shall constitute a quorum, but a less number may adjourn from time to time.

Meetings of common council.

SECTION 32. The common council shall hold its first annual meeting in each year on the second Tuesday in April, and thereafter at such times as they shall appoint. The mayor may call special meetings, by notices to each of the members personally, or left at their several places of abode. The common council shall determine the rules of its own proceedings, and have power to compel the attendance of absent members by fine or otherwise.

Shall have management and control of finances.

SECTION 33. The common council shall have the control and management of the finance, and of all property of the city, and shall likewise, in addition to the power herein vested, have full power to make, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade and commerce and health, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law, and

such rules, ordinances and by-laws are hereby declared to have the force of laws; provided, they are not repugnant to the constitution and laws of the United States, or of this state.

Powers of common council defined.

SECTION 34. The common council shall have the power to license and regulate the exhibition of common showmen and shows of any kind, or the exhibitions of caravans, circuses, or theatrical performances, billiard tables, bagatelle tables, pigeon-hole tables and bowling saloons, etc., and to provide for the abatement and removal of nuisances under the ordinances or at common law; and to grant licenses for selling spirituous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualling houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less than the minimum nor more than the maximum amount per annum, established by the general laws of the state of Wisconsin, and that all such licenses hereafter granted, shall run from the first day of May in each year; provided, however, that when any license may be applied for after that date, the same may be granted, to expire on the first day of May of each year, the applicant paying *pro rata* therefor; but no license shall be granted for a longer time or period than one year.

Gaming.

1st. To suppress, restrain and prohibit all description of gambling, and fraudulent devices and practices, and all playing of cards, dice or other games of chance with betting, and to restrain, prohibit and suppress any person or persons from vending or giving away, or dealing in, spirituous, fermented or vinous liquors, unless duly licensed by the common council; and to license, regulate and suppress hawkers and peddlers.

Riots, disturbances etc.

2d. To prevent or regulate the blowing of steam whistles, and prevent riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purposes of gambling.

Nauseous places.

3d. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome house or place, to cleanse, remove or abate the same from time to time, as often as

it may be necessary for the health, comfort and convenience of the inhabitants of said city.

4th. To direct the location and management of slaughter houses and markets, and to prevent the erection, use and occupation of the same when offal or filth therefrom, shall discharge into the waters of the rivers, streams, ponds or sloughs. Slaughter houses, etc.

5th. To prevent the encumbering of streets, sidewalks, crosswalks, lanes or alleys with railroad cars, carriages, sleighs, boxes, lumber, fire wood or any other materials or substances whatever. Encumbering of streets, etc.

6th. To prevent horse racing and immoderate driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city. Racing and immoderate driving.

7th. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the restraining, impounding and sale of the same. Restrain cattle.

8th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances. Dogs.

9th. To prevent persons from bringing, depositing or having within said city, any putrid carcasses, or unwholesome substances, and to require the removal of the same by any person who may have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, or, on default, to authorize the removal thereof, by some competent officer, at the expense of such person or persons. Putrid carcasses.

10th. To establish and make public pounds, pumps, wells, cisterns and reservoirs of the city, to regulate and license hacks, cabs, drays, carts and charges of drivers of the same; and to erect lamps for lighting the streets, public grounds and public buildings with gas or otherwise. Public pounds, wells, hacks, etc.

11th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds, set apart for public uses from taxation. Boards of health.

12th. To prevent all persons riding or driving any horse or mule, or any other animal on the sidewalks of said city, or in any way doing damage to sidewalks and bridges. Riding or driving on sidewalks.

13th. To prevent shooting of firearms or fire-

Shooting of fire arms, or fire crackers.

crackers, and to prevent the exhibition of any fireworks in any place or situation which may be considered by the common council dangerous to the city or any property therein, or annoying to the citizens thereof.

Restrain drunkenness.

14th. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners and solicitors.

15th. To restrain and regulate runners and solicitors for stages, cars, public houses, and other establishments.

Government of police.

16th. To make rules, regulations and ordinances for the government of the police of the city.

Public markets.

17th. To establish public markets, and make rules and regulations for the government of the same, and to punish and restrain all persons for attempting to interfere, or interfering with the due observance of such rules and regulations; to license and regulate butchers' stalls, shops, stands for the sale of game, poultry, meat, fish and other articles.

Hay and fuel.

18th. To regulate the place or places and manner of weighing or selling hay, and measuring and selling fuel, lime and other gross commodities.

Removal of snow, dirt and rubbish.

19th. To compel owners or occupants of buildings or grounds, when the same are occupied, to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite or adjacent thereto, and to compel such owner or occupant, to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his or her default, to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant.

Contagious diseases.

20th. To regulate, control and prevent the stopping and removal from carriages of common carriers, or any vehicle whatever, any person or persons afflicted with any infectious or contagious diseases or disorders, and to make such disposition of any person or persons so afflicted as to best preserve the health or the city.

Watchmen.

21st. In cases of emergency, in the discretion of the common council, to appoint watchmen and prescribe their duties.

22d. To provide by ordinance for a standard of weights and measures. Weights and measures.

23d. To protect trees and monuments in the said city. Monuments.

24th. To prescribe and regulate the construction of bridges, culverts and sewers within said city. Bridges and sewers.

25th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys and sidewalks, and to keep them free from any incumbrances, and to protect them from injury. Highways, streets.

26th. To change the name of any street in said city. Change of names.

27th. To consolidate or change the boundaries of school districts in said city, under the same restriction, and with the same power, as is now conferred on town boards under the general laws of this state. School districts.

28th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, necessary for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof. Ordinances. Actions against city.

29th. To provide for the prosecution or defense of all actions or proceedings in which the city is interested, and employ council therefor. Actions against city.

30th. To purchase real estate, and provide for the erection of a city hall, engine houses, and other public buildings; provided—the same is authorized by a majority of all the votes cast at any election, called to determine whether such real estate shall be bought or such buildings erected; and the common council is authorized to call elections for such purpose. City hall and engine house.

31st. To call a special election for the purpose of raising a tax, when, in their opinion, the amount which they are authorized to raise by the provision of this act, is insufficient to meet the requirements. Special meeting to raise tax.

32d. To establish grades of any or all the streets in the city, to cause sidewalks, gutters, and pavements to be constructed in the manner which the common council shall prescribe. Grades of sidewalks, etc.

33d. To establish a fire department, and to pro-

Fire department and its requirements.

vide for the due and proper support and regulation of the same, and to appoint or direct the election of such officers for such department, as they shall see fit, and to define their powers and duties; to provide protection from fire by the purchase of fire engines and all the necessary apparatus for the extinguishing of fires, and by the erection of pumps and the construction of water mains, reservoirs, or other water-works; to erect engine houses, to compel the inhabitants of the city to aid in the extinguishing of fires, and to pull down and raze such buildings in the vicinity of fires, as shall be directed by them or any two of them, who may be present at the fire, for the purpose of preventing its spreading to other buildings; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the construction of, and cleaning of chimneys; to prevent bonfires, and the use of fire-works and fire-arms in the city, or any part thereof; to authorize fire wardens, at all reasonable times, to enter into and examine all dwellings, lots, yards, enclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in a safe condition; and generally to establish such necessary measures for the prevention or extinguishing of fires, as may be necessary and proper; and to declare by ordinance the punishment for violation of any such ordinance or regulation. "The Washington Engine Company No. 1" and the "Hook and Ladder Company No. 1," now and heretofore existing in the territory of said city, and heretofore known as the fire department of Hartford, and their constitution, laws and by-laws, regulations and officers shall continue in full force in said city of Hartford, and be supported by said city until the common council shall establish a fire department under the provisions of this act, and the proper officers of the department now existing, and so long as it shall continue to exist as such, shall, in the months of May and October of each year, make a report to the common council, showing an estimate of what will be necessary and required for the maintenance of said department, and also a correct statement showing for what purpose moneys have been expended, which

may have been paid to said department by said city.

34th. To make, from time to time, such by-laws and ordinances as it may deem necessary for the preservation of bridges now erected, or hereafter to be erected, over any stream or pond in the city of Hartford, and enforce the same by adequate penalties. Preservation of bridges.

SECTION 35. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in a newspaper published in the city of Hartford, before taking effect, and within fifteen days thereafter they shall be recorded by the city clerk in books provided for that purpose; but before any such by-laws, ordinances or regulations shall be recorded, the publication thereof respectively within the same time, shall be proved by the affidavit of the foreman or publisher of the newspaper in which the same shall be published, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of the publication. Laws and ordinances, how passed.

SECTION 36. All printing and publication required by this act, or by the common council, shall be let to the lowest bidder therefor; provided such bid shall not be higher than the legal rates. Such bidder shall be an actual resident of the city of Hartford, and shall be required to give bonds with such conditions, and such sureties as the common council shall determine and require. Printing to be let to lowest bidder.

SECTION 37. The power conferred upon said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, houses or places where spirituous, vinous or fermented liquors are sold without the licenses required thereof, houses or buildings of any kind, wherein more than one hundred pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed nuisances. Shall not bar or hinder suits.

SECTION 38. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal and other officers or agents of the city, at such times as they may Council shall examine, audit and adjust accounts.

deem proper; also at the end of each year, and before the time for which the officers of said city are elected or appointed shall have expired, and the common council shall require each and every such officer and agent to exhibit his books, accounts, and vouchers for such examination and settlement, and if any such officers shall refuse to comply with the orders or requirements of the council in the discharge of their duties, in pursuance of this section, or shall neglect or refuse to render their account, or present their books and vouchers, to said council, it shall be the duty of said council to declare the office of such person vacant; and the council shall order suits and proceedings at law against any such officer, or person or agent of said city, who may be delinquent or defaulting in his accounts, or discharge of his official duties, and shall make a full record of all such settlements.

Funds shall be under control of council.

SECTION 39. All funds in the treasury except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council, and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding debt of said city. All orders shall be payable to the person, or order of the person in whose favor they may be drawn.

Annual tax levy.

SECTION 40. The common council of said city shall annually levy upon the taxable property of said city, to defray the current and lawful expenses of said city, a tax sufficient to defray the same; provided, said common council shall not levy in any one year, a tax of more than five mills on the dollar of the assessed valuation of the taxable property of said city, not more than two mills of which shall be a highway tax, unless authorized to raise a greater sum, by a majority vote of the electors of said city, at a general or special election.

Power to issue bonds.

SECTION 41. The common council of said city, shall not have power to issue any bonds or other evidences of debt, payable at a day subsequent to

the date of the issue thereof, except in cases specially authorized by law, and no bonds shall be issued to aid the construction of a railroad, until the proposition for their issue, shall have been submitted to the electors of the city and adopted by a majority voting thereon; nor shall the common council issue in any one year, orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act.

Accounts shall be verified.

SECTION 42. No account shall be allowed by the common council unless the same is properly verified by the oath of the owner thereof, or some person in his or her behalf, except it be for street work or hire, under the supervision of the street commissioner, duly certified by him.

Determination of board shall be final.

SECTION 43. When the claim of any person against the said city shall be disallowed, in whole or in part by the common council, the determination of the common council disallowing the same, in whole or in part, shall be final and conclusive, and a perpetual bar to any action in any court, founded on such claim, unless an action to recover the same shall be commenced within thirty days after such disallowance by the common council of said city.

Annual report.

SECTION 44. The common council shall annually, on the second Tuesday next preceding the annual election, make a report showing in detail all the receipts and disbursements of the said city, for the past fiscal year, and cause the same to be published in a newspaper published in said city, before the annual election.

Power to lay out streets, etc.

SECTION 45. The common council shall have power to lay out public streets and alleys, and to widen the same, as follows: Whenever five or more freeholders residing in said city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for the public use, for the purpose of laying out public streets or alleys, or the enlarging of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition. The common council shall thereupon cause notice of such application, to be given to the owners or occupants of such lands, if any there be, or if any portion

of said lands shall not be in the actual occupation of any person, then the common council shall cause such notices, describing as near as may be, the premises proposed to be taken, to be published in a newspaper published in said city, four weeks successively, at least once in each week.

What notice shall state.

SECTION 46. Such notice shall state, that upon a day therein to be named, not less than ten days from the service of such notice, or expiration of such publication, as the case may be, application will be made to a court commissioner of said county of Washington, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary and proper, to take the same for the purpose specified in said petition.

Proceedings to condemn land.

SECTION 47. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said court commissioner, shall appoint twelve resident freeholders of said city, not interested in the result of such application. The said court commissioner shall thereupon issue his precept, directed to said jurors, requiring them, within ten days, to view the premises to be specified in said precept, and to make returns under their hands, to the common council, whether in their judgment it is necessary and proper to take said premises, for the purpose specified in said application; and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Service of precept.

SECTION 48. The city marshal shall serve the said precept immediately on the jurors named therein, by reading the same to each one that can be found, and immediately after such service, he shall return the said precept to the court commissioner who issued the same, together with his doings thereon; and if the jurors so appointed cannot be found, or shall be disqualified from acting, or shall be excused from acting by the said commissioner, the court commissioner shall appoint others, to be summoned in like manner, in their places, and a memorandum of such substitution, shall be indorsed on the precept.

SECTION 49. The said jurors, at such times as shall be designated in said precept, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing, and either of the jurors shall be authorized to administer oaths to witnesses. After viewing the premises in question and hearing testimony, if offered, the jurors shall make a report of their proceedings, which shall be signed by them, and which shall state whether, in their judgment, it is necessary to take the premises in question for public use, which said report, testimony and precept shall be returned to the common council. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings, confirming said report, and directing the same jurors, within twenty days thereafter, to again view the premises, to ascertain the amount of damages to be paid to the owner or owners of said property proposed to be taken; and to assess and return within the twenty days, such damages to the common council, who shall enter an order confirming the same. Duties of jurors.

SECTION 50. If there should be any building in whole or in part, upon said lands to be taken, the jurors shall first estimate the value of such building to the owner aside from the value of the land, and the injury to him in having such building taken from him, and secondly, the value of such building to him to remove.

SECTION 51. At least ten days' notice of such determination, shall be given to the owner or his agent, if known and a resident of the city, if not known or a non-resident, notice to all persons interested shall be given by publication in a newspaper of said city, for three successive weeks. Such notice shall specify the building and the award of the jurors, and it shall require the parties interested, to appear by a day named therein, and give notice of their election, to the common council, either to accept the award of the jurors, and allow such buildings to be taken with the land appropriated, or of their intention to remove such building, and he shall have such time to remove such building as the common council shall allow. Notice of determination shall be given.

SECTION 52. If the owner shall refuse to take the

If owner refuses to take buildings at value assessed.

building at the value assessed by the jurors to remove, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction, for cash, giving ten days' notice of such sale; the proceeds shall be paid to the owner, or deposited for his use. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgage, or if there be any estate in them less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

Award of jurors shall be signed.

SECTION 53. The award of said jurors shall be signed by them and returned, together with the testimony taken and the precept, to the common council, within the time limited in such precept. Any person whose property is taken, or against whom any assessments are made, may, within ten days from the return of the jurors to the common council, appeal from such assessment of damages, to the circuit court of Washington county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond to said city conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; said bond to have a good and sufficient surety, to be approved by the clerk of said city, or county judge, or court commissioner.

Land shall not be taken until damages are paid or tendered.

SECTION 54. The lands required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor, to the owners thereof, or party entitled thereto, shall be paid or tendered to the owner or party entitled thereto, or his agent, or, in case the owner or party entitled thereto, or his agent, cannot be found, or is unknown, deposited to his credit in some safe place of deposit; and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds, opened or laid out. The damages assessed shall be paid within one year, or tendered, or deposited, as herein required, and if not so paid, tendered or deposited within one year from the confirmation of such assessment, the proceedings shall be void.

In case of minor.

SECTION 55. When any known owner of lands or tenements, affected by any proceedings under this act, shall be an infant, or other person under legal disability, having no general guardian, the county judge of Washington county, on the application of the mayor of the city, or such party, or his next friend, shall appoint a guardian for such party, and all notices required by this act shall be served upon such guardian. Whenever any street, alley or public grounds shall be laid out under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made, and filed in the office of the city clerk.

Property subject to tax ation

SECTION 56. All property, real or personal, within the city, excepting such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, schools, and the payment of debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessor elected under this act, shall have and possess the same powers, that are, or may be conferred upon township assessors, except so far as they may be altered by this act; provided, that the common council may prescribe the form of the assessment roll, and more fully define the duties of the assessor, and make such rules and regulations in relation to revising, altering or adding to such rolls as it may, from time to time, deem advisable. When the assessment roll shall be completed, the assessor shall return the same to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter, and add to, take from, and otherwise correct the same. If it shall appear to the assessor that any lot or parcel of land was omitted, in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the taxation of that year, assess upon the lot or tract so omitted for such year or years, that it shall have been omitted, the just value thereof, noting the year when such omission occurred, and such assessments shall have the same force as it would have had, if made the year when the same was omitted. Should the tax or assessment upon any parcel of land be set aside,

or declared void by reason of any defect or any informality in assessing or levying said tax, or conveying said land, but not affecting the justice and equity of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relevied in such manner, as it shall direct by ordinance.

Board of equalization.

SECTION 57. The mayor, clerk, treasurer and assessor shall constitute the city board of equalization, and shall meet on the first Monday of July in each year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are required by law to proceed, as far as the law is applicable to them, revising, correcting, and equalizing the assessment roll of the city. The mayor shall be president of the board, and the city clerk, clerk thereof. When the assessment roll shall have been completed, revised and corrected, it shall be filed with the clerk, and all changes of the assessment roll by the board of equalization, shall be recorded by the clerk. Thereupon the common council, shall, by resolution levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, specifying the purposes for which the same are levied. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and on all personal property of any person or body politic, assessed for personal tax, from the delivery of the warrant for collection thereof, until paid.

Duty of clerk in regard to tax roll.

SECTION 58. It shall be the duty of the city clerk, immediately on the receipt of the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with the city and other local taxes, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent; and the clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer, on or before

the second Monday in December in each year, and to such assessment roll so delivered, a warrant under the hand of the clerk, and the corporate seal of said city shall be annexed, substantially in the following form:

Form of warrant.

The state of Wisconsin, to the city treasurer of the city of Hartford, in the county of Washington:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll, and of the owners of the real estate described therein, the taxes set down in such roll, opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same, by distress and sale of goods and chattels of the person or coporation so taxed, and out of the moneys so to be collected, after deducting your fees, you are first to pay to the treasurer of the county of Washington, on or before the last Monday in January next, the sum of ———, for state taxes, and the further sum of ———, for county taxes, and the balance of the money you are required to retain and pay out according to law; and in case said tax and assessment shall not be paid by the fourth Monday of February next, you are required to return the same, to the county treasurer of the county of Washington.

Given under my hand, and the corporate seal of the city of Hartford, this —— day of ———.

———— ————.
City Clerk.

Evidence.

The assessment roll and warrant thereto attached shall be *prima facie* evidence in all courts, that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

All general laws relating to assessment shall be in force.

SECTION 59. All the general laws of this state, which are now, or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes, and all assessments of said city, in the same manner as is required by law of the town treasurer to collect taxes, except as herein provided.

Public notice shall be given.

SECTION 60. Upon the receipt of the tax roll and warrant by the treasurer, he shall give public notice in a newspaper published in said city, that such tax list, has been delivered to him for collection, and that he will receive payment for taxes at his office, for the term of thirty days next ensuing the date of said notice. If the taxes are not paid in that time, he shall then proceed to collect the same, by distress and sale of the goods and chattels of the persons charged, giving at least six day's notice of the time and place of such sale, by posting up not less than three written or printed notices, in as many public places in said city.

Collection of taxes by treasurer.

SECTION 61. The treasurer shall collect as fees for the collection of taxes, one and one-half of one per cent. on all taxes collected by, or paid to him, on or before the second Monday of January in each year, and three per cent. upon all taxes or assessments paid to, or collected by him after said day; and in case of a distress or sale made by him of goods and chattels for the payment of any tax, he shall collect the same fees as are allowed constables on sale of goods on execution.

Payment of state tax.

SECTION 62. The treasurer shall, on or before the last Monday in January, in each year, pay to the county treasurer, the state tax assessed upon the property in said city.

In case taxes cannot be collected.

SECTION 63. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things, as prescribed by the laws of this state, and any act that may hereafter be passed amendatory of said acts, or in addition thereto.

Relief of the poor.

SECTION 64. The laws of the state for the relief and support of the poor, shall apply to said city in the same manner as if it were a town.

Supervision of the common schools.

SECTION 65. The common schools of the city of Hartford, shall be under the control and supervision of the school district boards of each district, in the same manner as if this act had not been passed, and the same relations shall be sustained between said city and such schools, as near as may be, as between towns and schools therein, and the same reciprocal powers and duties; and school districts number four and ten, of the town of Hartford, shall hereafter be known as joint districts number four and ten, respectively, of the

city of Hartford and the town of Hartford, until otherwise provided according to law.

SECTION 66. The town clerk of the town of Hartford for the year 1883, shall apportion all school money or school fund that is to be apportioned prior to the first day of September, 1883, to the several districts, a part of which is embraced in the city of Hartford, in the same manner as though this act had not been passed.

Actions by city, how conducted.

SECTION 67. The city of Hartford, in its corporate name, may sue for, and recover any and all fines, penalties and forfeitures, under this charter, and the acts amendatory thereof, or under the ordinances, by-laws, or police or health regulations made in pursuance thereof, any general law of the state to the contrary notwithstanding, and all such prosecutions, shall be commenced in the name of the city of Hartford, and shall be conducted in the same manner, and the same proceedings shall be had as in civil actions in justice's courts, including the right of either party to appeal, except as herein otherwise provided; and it shall be lawful to complain generally in debt for such penalty or forfeiture, stating the section of this act, or the chapter or section of this act, or the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. In all prosecutions for any violation of any of the provisions of this act, or any ordinance, by-law or regulation, the first process shall be a summons, unless oath be made for a warrant, as hereinafter prescribed, and when commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF WASHINGTON, } ss.
City of Hartford. }

The state of Wisconsin to the sheriff or any constable of said county, or the marshal of the city of Hartford:

You are hereby commanded to summon ———— ————, to appear before the undersigned, a justice of the peace, in and for the city of Hartford, on the ———— day of ————, 18—, at ———— o'clock in the ————noon, to answer to the city of Hartford, to the damages of said city, two hundred dollars or under.

Given under my hand, this ———— day of ————, 18—.

———— ————, Justice of the Peace.

When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

CITY OF HARTFORD, against A. B.	In Justice Court, County of Washington, Before C. D., Justice of the Peace.

The plaintiff complains against the defendant, that on the ——— day of ———, at the said city, the defendant did violate section ———, of (this act) or section ———, of an ordinance, or by-law, or regulation of said city (describing it by its title), which said ——— is now in force. By reason of such violation, an action has accrued to the city of Hartford, to recover of the defendant the sum of ——— dollars, wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, beside the cost of this action. In all cases where a warrant is desired, the complaint shall be made on oath by the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

CITY OF HARTFORD, against A. B.	In Justice Court, County of Washington.

——— ———, being duly sworn, complains on oath to C. D., a justice of the peace of the city of Hartford, in said county, that A. B., on the —— day of ———, ——, at said city, did violate section ———, of (this act), or section ——— of chapter ——— of (this act), or section ——— of an ordinance, or by-law, or regulation of said city, (describing it by its title), as this complainant verily believes, and prays that said A. B. may be arrested, and held to said city of Hartford therefor.

Subscribed and sworn before me this —— day of ———, ——.

Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF WASHINGTON, City of Hartford.	ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Hartford:

Whereas, ——— ——— has this day complained to me, in writing, on oath, that A. B., on the —— day of ———, ——, at said city, did violate section ——— of (this act), or section ——— of chapter —— of (this act), or section ——— of an ordinance, by-law or regulation of said city, (describing it by its title), therefore, you are hereby ordered to arrest the body of said A. B., and bring him before me forthwith, to answer to said city of Hartford on the complaint aforesaid.

C. D., Justice of the Peace.

How justice shall proceed.

Upon the return of the warrant, the justice shall proceed summarily with the case, unless it be adjourned. The defendant, if required by the court, shall recognize, with security to be approved by the court, for his appearance in such sum as the court may direct, and in default may be put in charge of the officer who made the arrest, or be committed.

Printed copy to be evidence.

SECTION 68. A printed copy of an ordinance, by-law or regulation passed by the common council, and purporting to be published by its authority, as certified by the clerk of said city so to have been published, shall be *prima facie* evidence of its passage and publication, and shall be received [in evidence] on the trial of all cases, cognizable before any court in this state.

Witnesses and jurors shall attend without prepayment of fees.

SECTION 69. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without payment of fees in advance, or a tender thereof, upon a process duly served, and in default thereof, their attendance may be compelled by attachment.

Finding of jury, etc.

SECTION 70. In city prosecutions, the answer of "not guilty" shall put in issue all the subject matter embraced in the action, and the finding of the court or jury shall be, "guilty," or, "not guilty." If guilty, the court shall render judgment against the defendant for the fine, forfeiture or penalty prescribed in this act, or in an ordinance, by-law or regulation, and for costs of suit; but if not guilty, the costs of [suit] shall be taxed against the city. Upon rendition of the judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution, as in other cases of tort in justices' court, in case the action was commenced by summons, or a commitment, in case it was commenced by warrant, and shall in either case determine and enter upon

his docket, the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. The form of the execution and commitment shall be the same, as near as may be, and conform to the provisions of this act, as are prescribed in similar or like cases in justices' court in this state.

Shall not work incompetency.

SECTION 71. No person shall be incapacitated or excused, from testifying touching any offense, committed against the provisions of this act, or any ordinance of the city of Hartford, by reason of his or her being implicated in such offense, but the testimony of such witness, shall in no case be used against such witness.

SECTION 72. No person shall be an incompetent witness, judge, justice or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

No property of citizens to be levied on, upon city judgments.

SECTION 73. No real or personal property of any inhabitant or corporation of said city, shall be levied on, or sold to satisfy any contract, or debt or obligation of said city, or any judgment against said city of Hartford.

Remission of penalties.

SECTION 74. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by a two-thirds vote of all the members of the common council.

City may hold and purchase real estate.

SECTION 75. The said city may have, purchase and hold real and personal property sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same, while owned or held by said city, shall be exempt from taxation, except as provided by the general laws of the state.

Deeds.

SECTION 76. When the city of Hartford deeds or leases any real estate or any interest therein, owned by said city, the party of the first part shall be the city of Hartford, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Deeds and leases, how executed.

SECTION 77. Deeds or leases executed by the city shall be signed by the mayor and clerk, and the clerk shall attach to said deed or lease, a true copy of an ordinance, or resolution, authorizing the same by the city council, which said corporate seal, shall also be attached to said deed or lease and the certified copy of such ordinance or reso-

lution, when so attached, shall be recorded with such deed or lease, by the register of deeds, and such copy, when so attached, and the record thereof, shall in all courts of this state be *prima facie* evidence or the authority of the mayor and clerk to execute such deed or lease.

If any election, for any cause, should fail to be held.

SECTION 78. If any election by the people or common council shall, for any cause, not be held at the time or in the manner prescribed, or if the council should fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization may be held at any subsequent day, by order of the mayor, and if any of the duties enjoined by this act, or the ordinances or by-laws, or regulations of said city, to be done by any officer at any specified time, are not then performed, the common council may appoint another time at which said act may be done.

Not repealing.

SECTION 79. No general law of this state contravening the provisions of this, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth.

Poll tax.

SECTION 80. The common council shall levy the same poll tax as is, or may be required by the general law to be levied in towns, and the general laws relative to the collection and expenditure of poll taxes, and of highway taxes in towns, shall, as far as applicable, govern the collection and expenditure thereof in said city. Said poll and highway taxes shall be separately assessed for each ward, and the amount raised in each ward shall be expended in such ward.

City regarded as a town for equalizing purposes.

SECTION 81. The board of supervisors of the county of Washington, shall regard the city of Hartford as a town, in equalizing the assessment rolls of the several towns in said county, as provided for by law, and shall receive the supervisors whose election is, or may be, provided for by this act, or any act amendatory thereof, as a member of the county board. The said board of supervisors may levy tax or taxes, as now is, and may hereafter be, provided by law in relation to towns, and shall cause the amount of taxes so levied, to be certified to the city clerk, in the manner provided by law in relation to towns and town clerks.

Copy of assessment roll to be made by clerk.

SECTION 82. Before the annual meeting of the board of supervisors of the county of Washing-

ton, and by the time required by law for the return of the assessment roll from the several towns, the city clerk shall transmit a copy of the assessment roll, or such statement as is required by law to be made by towns, to the clerk of the board of supervisors of said county, who shall lay the same before the board of supervisors at its annual meeting.

Sale of delinquent lands.

SECTION 83. The county treasurer shall sell all delinquent lands and lots returned from the city of Hartford, at the same time and in the same manner, as other delinquent lands are sold in the county.

Duty of county treasurer in regard to delinquent lands.

SECTION 84. It shall be the duty of the county treasurer of the county of Washington, where lots, tracts, pieces or parcels of lands have been returned by the city treasurer as delinquent, for any general tax of this state, or for any tax authorized under this act, immediately after the sale of such delinquent lots, tracts, pieces or parcels of land by him, to pay said city treasurer the amount which may have been returned delinquent, belonging to the city of Hartford, either in cash, or in certificates of sale of said lots, tracts, pieces or parcels of land so returned as delinquent.

Use of county jail.

SECTION 85. The use of the jail of Washington county shall be granted to the city of Hartford until otherwise provided, for the confinement of offenders; and every such offender shall be delivered to the sheriff of said county, who shall be responsible for the safe keeping, custody and delivery of said offender as in other cases.

Connection between town and city shall cease.

SECTION 86. From and after the first Tuesday in April, 1883, the connection between the town of Hartford and that part of said town included within the limits of the city of Hartford, for all town purposes, shall be dissolved; all that part of the town of Hartford not included within the limits of the city of Hartford, shall constitute the town of Hartford, and the first town meeting shall be held at such place, as the chairman of the board of supervisors of said town shall appoint.

SECTION 87. Real estate exempted from taxation by the laws of this state shall be subject to special taxes or assessments which become, or shall be chargeable against, particular property as provided by this act.

Compensation of city officers.

SECTION 88. The city officers whose compensation is not herein provided for, shall receive as

compensation for their services, such sum as the common council shall determine. No such officer shall receive a higher or lower compensation than his predecessor, unless such increase or reduction of compensation, shall have been determined by the city council before the election or appointment of such officer; and in case of an officer elected or appointed to fill a vacancy, he shall receive the same *pro rata* compensation that his predecessor would have received.

Public act.

SECTION 89. This act is hereby declared a public act, and shall be liberally construed in all courts.

Town clerk shall sign notices, etc.

SECTION 90. The town clerk of the town of Hartford, shall sign and give the notices, and file the papers provided for in this act, and shall receive the same compensation therefor, as for doing like services for the town.

SECTION 91. This act shall take effect and be in force from and after its passage and publication.

Approved March 16, 1883.

[No. 187. S.] [Published March 21, 1883.]

CHAPTER 84.

AN ACT to revise, codify and amend chapter 102, laws of 1882, entitled "An act to incorporate the city of Menomonie."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Boundaries, and corporate name.

SECTION 1. All the district of country in the county of Dunn, contained within the boundaries hereinafter described, shall be a city by the name of "Menomonie;" and the people now inhabiting said district shall be a municipal corporation, the name of which shall be, "The city of Menomonie." Said corporation shall have the general powers possessed by municipal corporations at common law, and in addition thereto, the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession; shall be capable contracting and being contracted with; of suing and being sued; pleading and impleaded in all courts, and shall have a common seal and may change the same at pleasure.

CITY BOUNDARIES.

City boundaries.

SECTION 2. The southwest quarter (¼) of the southeast quarter (¼), and the southeast quarter (¼) of the southwest quarter (¼) of section eleven

(11), all of sections number thirteen (13), fourteen (14), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), all that part of thirty-four (34) lying east of the Red Cedar river, all of sections number thirty-five (35) and thirty-six (36), in township number twenty-eight (28) north, of range thirteen (13) west, in the county of Dunn and state of Wisconsin, shall be included in, and constitute the limits of the city of Menomonie.

WARD BOUNDARIES.

Ward boundaries.

SECTION 3. The said city shall be divided into four wards, the boundaries of which for the present, and until changed as hereinafter provided, shall be as follows, to wit: All that portion of said city lying west and north of the Red Cedar river shall constitute the first ward; all that portion of said city lying east of Red Cedar river and north of the section line between sections number twenty-six (26), and thirty-five (35), extended west to said river, and west to the center of Ninth street, extended north from said section line to the said river, shall constitute the second ward; all that portion of said city lying east of the center of Ninth street and north of the section line between sections twenty-six (26), and thirty-five (35), extending east on said line to the east boundary line of said city, shall constitute the third ward; all that portion of said city lying south of the south boundary line of the second and third wards, and east of the Red Cedar river, shall constitute the fourth ward. But the common council shall have power to change said lines of division as they may deem convenient and proper.

COMMON COUNCIL.

Common council.

SECTION 4. The corporate authority of said city shall be vested in one principal officer styled the mayor; in one board of aldermen, consisting of two members from each ward, who, with the mayor, shall be denominated the common council, and such other officers as are hereinafter mentioned, or may be created under this act.

ELECTIVE OFFICERS.

Elective and appointive officers.

SECTION 5. The elective officers of said city shall be a mayor, clerk, treasurer, assessor, mar-

shal, superintendent of schools, street commissioner, and three justices of the peace, elected by the city at large, and two aldermen, one school commissioner, one supervisor to represent his ward in the board of supervisors of Dunn county, and one constable in each ward. The school commissioners elected at the election of 1882, from the first and second wards, shall hold their offices for one year, and until their successors are elected and qualified; and the commissioners elected from the third and fourth wards, shall hold their offices for two years, and until their successors are elected and qualified. Annually thereafter, there shall be elected from each ward, where the term of office of a school commissioner expires, a school commissioner for a term of two years, and the council may make appointments of school commissioners to fill vacancies which may occur from any cause. All other necessary officers, shall be appointed by the common council. All elective officers, except justices of the peace and aldermen, shall, unless elected to fill vacancy, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, the council shall have power, for due cause satisfactory to them, to expel any of their own number, and to remove from office any officer or agent of the city, except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The term of every officer elected under this act, shall commence on the second Tuesday in April, of the year for which such officer is elected, and the term of office of all appointed officers, shall expire with that of the members of the body appointing them.

Election of aldermen.

SECTION 6. At the first election held in said city under the provisions of this charter, one alderman shall be elected from each ward, whose term of office shall be one year, and one alderman from each ward, whose term of office shall be two years. Aldermen elected thereafter, except to fill vacancy, shall hold their office for two years.

ANNUAL ELECTIONS.

SECTION 7. The qualified voters of the city of Menomonie, shall hold an election on the first

Regarding elections.

Tuesday in April of each year, for the election of city and ward officers herein designated, and shall be presided over by the inspectors of election, appointed under the general laws of this state, who shall see the ballots safely deposited in the ballot box; shall decide all questions that may arise as to the legality of the votes presented; shall count the ballots at the close of the polls, and shall certify and seal two returns; and the day following the election, shall direct and return one of the said returns to the city clerk of the city of Menomonie, and the other to the county clerk of the county of Dunn. The mayor of the city and such members of the common council, as shall hold over, shall constitute a board of canvassers, who shall, within three days after such election, meet at the council chamber and canvass such returns; and after the aforesaid returns have been canvassed by said board, the mayor shall notify by a certificate, the persons elected to the respective offices. The polls shall be kept open in the respective wards from nine o'clock in the forenoon until five in the afternoon, but an adjournment may be made from twelve o'clock noon, to one o'clock in the afternoon, by notice thereof given at the opening of the polls. Said elections shall be conducted in accordance with this act, and of the existing laws of the state of Wisconsin, and any frauds or violation of said laws at such elections, shall be punishable in the same manner as any violation of the election laws in any part of the state.

QUALIFIED ELECTORS.

Who are qualified electors.

SECTION 8. All persons who are qualified electors of the state of Wisconsin, shall be deemed qualified electors and voters of said city and ward. Each ward officer shall be a qualified elector in the ward in which he is elected, and each city officer shall be a qualified elector in the city.

SPECIAL ELECTIONS.

Special elections

SECTION 9. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by inspectors of election, as provided by this act, and the returns thereof shall be made in the same manner and form as of annual elections; provided, however, that in case a special election is to be held in the city other than for ward purposes, the

common council may order a single poll for the entire city, and appoint the place where the election is to be held, and the inspectors of election and the clerks therefor.

Elections to be by ballot.

SECTION 10. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All elections by the council shall be *viva voce*, except as hereinafter provided. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the council, at such time and in such manner as it may direct.

In case of vacancy.

SECTION 11. In the event of a vacancy in the office of mayor or alderman, the common council shall order a new election, and shall give five day's notice thereof. Any vacancy in other offices shall be filled by the common council. The person appointed or elected to fill a vacancy, shall hold the office and discharge the duties thereof for the unexpired term, with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

What constitutes a vacancy.

SECTION 12. Any officer removing from the city, and any ward officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify, on or before the second Tuesday of April next after his election, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided. All officers appointed or elected to fill any vacancy shall enter upon the duties of such office immediately after receiving notice of such election or appointment.

OFFICERS — THEIR POWERS AND DUTIES.

Duties required of officers to qualify.

SECTION 13. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the clerk of the city; and the clerk, marshal, constable, and such other officers as the council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Menomonie a bond, with at least two sureties, who shall swear that they are

each worth the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bond shall contain such penal sums and such conditions as the council shall deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, nor more than ten, sureties. The penal sum expressed in such sum bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount, over and above all debts, liabilities or exemptions, and the aggregate of such amounts shall, at least, exceed the penal sum specified in the bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city; and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, and shall qualify in the same manner as provided by the general laws, except that their official bonds shall be approved by the council, and in addition thereto, shall have jurisdiction in all cases arising under this act, and hold their office and courts in any part of the city. All constables elected under this act, shall have, and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Duties of mayor.

SECTION 14. The mayor shall, when present, preside over the meetings of the council. He shall take care that the laws of the state, and the ordinances of the city, are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall from time to time, give the council such information, and recommend such measures, as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance, he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and to appoint a marshal in place of the one he may remove, but the term of office of a marshal who may be appointed by the mayor, shall not commence until his nomination has been approved by a majority of the council. The mayor

shall have a vote in the council only in case of a tie, and when the council shall be engaged in the election of any officer, he shall have a vote the same as an alderman. When presiding over the council his style shall be, "Mr. President."

Election of president.

SECTION 15. At the first meeting of the council after its election, in each year, it shall proceed to elect, by ballot, one of its members president, and, in the absence of the mayor, the said president shall preside over the meetings of the council; and during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor. In case both the mayor and president shall be absent at any meeting of the common council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by him shall have the same force and validity as if performed by the mayor, but the president of the council, as acting mayor, shall sign no order, warrant, or other proceeding whatever, which the mayor has refused to sign and communicated such refusal to the council.

Clerk.

SECTION 16. The clerk shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the council, at whose meetings it shall be his business to attend, and copies of all papers filed in his office, and transcripts from the records of the council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the council, and shall keep a full and accurate account thereof, in books provided for that purpose. Whenever the clerk shall be absent from any meeting, the city council may appoint a clerk *pro tem.* The city clerk shall have power and authority to administer oaths and affirmations. The salary of the city clerk shall not exceed four hundred dollars per annum, payable quarterly.

Treasurer.

SECTION 17. The treasurer shall perform such duties and exercise such powers as may be law-

fully required of him by the ordinances of said city or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements in such manner as the council shall direct. He shall report to the council as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties, and be subject to the same liabilities, as treasurers in towns. No person, having been city treasurer for two years in succession, shall be eligible to a re-election until one year shall have elapsed; nor shall any person who has been city treasurer be appointed deputy treasurer for the term immediately succeeding his term of office. The salary of the treasurer shall not exceed four hundred dollars per annum, and shall be payable quarterly.

Assessor.

SECTION 18. The assessor shall assess all the taxable property of the city of Menomonie as required by law, without regard to wards, and shall complete and return his assessment roll to the common council on the day fixed by the general laws of this state. The assessor shall receive for his services such compensation as the common council shall determine, not exceeding two hundred dollars for the term for which he was elected, and which shall be payable when the assessment roll is completed. The salary, as so fixed, to be in lieu of all fees, and full compensation for all the duties imposed on said assessor by law.

Marshal.

SECTION 19. The marshal shall possess all the powers of a constable in towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed by the mayor, and when necessary, in criminal cases, or for the violation of any ordinance of said city, or laws of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend any person in the act of committing

any offense against any ordinance of said city, or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the ordinances of said city. He shall have the power to appoint one or more deputies, to be approved by the council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties.

Council may require other duties of officers.

SECTION 20. The common council shall have the power from time to time to require other and further duties to be performed by any officer whose duties are herein prescribed; and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers appointed by it where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix by resolution, the salary which shall be paid to the clerk, treasurer, marshal, assessor and school superintendent for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected; neither shall extra compensation be granted except by unanimous vote of the council, which vote shall be approved by the mayor.

Official paper.

SECTION 21. The council, at the first meeting after its election, or as soon thereafter as practicable, shall designate a newspaper, printed in said city, in which shall be published all ordinances and other matters required by this act, or the by-laws or ordinances of the city, to be published in a newspaper.

Evidence of publication.

SECTION 22. The city printer, or printers, immediately after the publication of any notice, ordinance or resolution, which, by this act, is required to be published, shall file with the clerk of the city, a copy of such publication with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published; and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution as stated in such affidavit.

SECTION 23. If any person, having been an officer in said city, shall not, within ten days after

Penalty for refusing to deliver over property.

notification and request, deliver to his successor in office, all property, books, papers and effects of every description in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws in this state.

Alderman shall not be party to any job or contract.

SECTION 24. No alderman shall be a party to, or interested in, any job or contract with the city, and any contract, in which an alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the council may sue for and recover the amount so paid from the parties to such contract, and the alderman interested in the same, or either or any one of them; provided, however, that this section shall not prevent the council from leasing any of the public grounds of the city, in such manner and to such party, as it may see fit to do.

Who are officers of the peace.

SECTION 25. The mayor, or acting mayor, sheriff of Dunn county, and each and every alderman, justice of the peace, marshal, constable and watchmen, shall be officers of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and, for such purposes, may command the assistance of all bystanders, and, if need be, of all citizens; and if any person, bystander, military officer or private, shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars ($50); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Election of city surveyor, and his duties.

SECTION 26. The council may elect a city surveyor, and prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the surveyor, or filed with the city clerk when ordered by the council, and be open to the inspection of the parties interested; and the same, together with all books and papers appertaining

to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the council. The certificate of the surveyor shall have the same force and effect in all courts, as the certificate of the county surveyor. The council may elect a city attorney, who shall conduct all law business of said city, and the departments thereof, and all other business in which the city shall be interested, and when requested by the mayor or council, he shall furnish written opinions on subjects submitted to him in which the city or any departments thereof, may be interested. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments in writing as may be ordered by the council, and to perform such other duties as may be prescribed by the ordinances of the city, or by any resolution of the council. The salary of the city attorney shall be fixed by the council at a sum not exceeding two hundred dollars a year, payable quarterly. City attorney, and his duties.

SECTION 27. All actions to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by, or before any justice of the peace in the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All fines and penalties collected by any justice in such cases, shall be paid over to the city treasurer. Each justice shall report to the council on the first Monday in January, April, July and October, in each year, a statement of all such fines and penalties collected by him, and at the same time, pay over the amount thereof to the city treasurer, except as above mentioned. Actions shall be brought in corporate name of city.

SECTION 28. In all prosecutions of any violations of any of the provisions of this act, or any ordinance, by-law or regulation, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before justices of the peace, under the general statutes of the state for the time being. How prosecutions shall be conducted.

Penalty for refusing to deliver over property.

notification and request, deliver to his successor i office, all property, books, papers and effects every description in his possession, belonging said city, or pertaining to the office he may hav held, he shall forfeit and pay to the use of the cit one hundred dollars ($100), besides all damag caused by his neglect or refusal so to deliver; an such successor may recover possession of suc books, papers and effects in the manner prescribe by the laws in this state.

Alderman shall not be party to any job or contract.

SECTION 24. No alderman shall be a party t or interested in, any job or contract with the cit and any contract, in which an alderman may so interested, shall be null and void; and in cas any money shall have been paid on any such co tract, the council may sue for and recover th amount so paid from the parties to such contrac and the alderman interested in the same, or eith or any one of them; provided, however, that th section shall not prevent the council from leasin any of the public grounds of the city, in suc manner and to such party, as it may see fit to d

Who are officers of the peace.

SECTION 25. The mayor, or acting mayo sheriff of Dunn county, and each and every alde man, justice of the peace, marshal, constable an watchmen, shall be officers of the peace, and ma command the peace and suppress in a summar manner all rioting and disorderly behavior with the limits of the city; and, for such purposes, ma command the assistance of all bystanders, and, need be, of all citizens; and if any person, b stander, military officer or private, shall refuse aid in maintaining the peace, when so require every such person shall forfeit and pay a fine fifty dollars ($50); and in cases where the civ power may be required to suppress riotous or di orderly behavior, the superior or senior offic present, in the order above mentioned in this se tion, shall direct the proceedings.

Election of city surveyor, and his duties.

SECTION 26. The council may elect a city su veyor, and prescribe his duties and fix the fe and compensation for any service performed b him. All surveys, profiles, plans or estimat made by him for the city, shall be the property the city, and shall be carefully preserved in th office of the surveyor, or filed with the city cler when ordered by the council, and be open to th inspection of the parties interested; and the sam together with all books and papers appertainin

to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the council. The certificate of the surveyor shall have the same force and effect in all courts, as the certificate of the county surveyor. The council may elect a city attorney, who shall conduct all law business of said city, and the departments thereof, and all other business in which the city shall be interested, and when requested by the mayor or council, he shall furnish written opinions on subjects submitted to him in which the city or any departments thereof, may be interested. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments in writing as may be ordered by the council, and to perform such other duties as may be prescribed by the ordinances of the city, or by any resolution of the council. The salary of the city attorney shall be fixed by the council at a sum not exceeding two hundred dollars a year, payable quarterly.

City attorney, and his duties.

SECTION 27. All actions to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by, or before any justice of the peace in the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. All fines and penalties collected by any justice in such cases, shall be paid over to the city treasurer. Each justice shall report to the council on the first Monday in January, April, July and October, in each year, a statement of all such fines and penalties collected by him, and at the same time, pay over the amount thereof to the city treasurer, except as above mentioned.

Actions shall be brought in corporate name of city.

SECTION 28. In all prosecutions of any violations of any of the provisions of this act, or any ordinance, by-law or regulation, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before justices of the peace, under the general statutes of the state for the time being.

How prosecutions shall be conducted.

SECTION 29. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF DUNN, } ss.
City of Menomonie. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Menomonie: You are hereby commanded to summon ——— ———, if ——— shall be found within your county, to appear before the undersigned, a justice of the peace in and for said city on the ——— day of ———, A. D., 18—, at ——— o'clock in the ——— noon, to answer the city of Menomonie to the damage of said city, two hundred dollars ($200) or under.

Given under my hand this ——— day of ——— 18—. A. B., Justice of the Peace.

When summons shall be returnable.

SECTION 30. Such summons shall be made returnable and be served in the same manner as is now, or hereafter may be, prescribed by laws of this state for the commencement of actions before justices of the peace by summons, and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of this state for the time being, relative to actions commenced by summons and triable before justices of the peace.

SECTION 31. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

THE CITY OF MENOMONIE, } In Justice Court, be-
Against } fore C. D., Justice of
A. B. } the Peace.

The plaintiff complains against the defendant for that the defendant, on the ——— day of ———, 18—, at the said city, did violate section ——— of this act, or section ——— of an ordinance or by-law or regulation of said city, (describing it by its title), which said ——— is now in force. By reason of such violation an action hath accrued to the city of Menomonie, to recover from the defendant the sum of ——— dollars ($— debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 32. In all cases when oath is made for a warrant, the complaint shall be made on oath of

the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

THE CITY OF MENOMONIE, Against A. B. County of Dunn. } ss. In Justice Court, before C. D., Justice of the Peace.

———— ————, being first duly sworn, on oath complains to ———— ————, justice of the peace in and for the city of Menomonie, in said county, that A. B., on the ———— day of ————, 18—, at the said city, did violate (section ———— of this act, or section ———— of an ordinance, or by-law, or regulation of said city, describing it by the title), which said ———— is now in force, as this complainant verily believes, and prays that A. B. may be arrested and held to answer to said city of Menomonie.

Subscribed and sworn to before me this ———— day of ————, 18—. ———— ————.

It shall be sufficient to give the number of the section of this act, or the section of the ordinance, by-law or regulation violated, in the foregoing form of complaint; and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint, with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF DUNN, City of Menomonie, } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Menomonie, greeting:

Whereas, ———— ———— has this day complained to me, in writing, on oath, that A. B., on the ———— day, of 18—, at said city, did violate (section ———— of this act or section ———— of an ordinance, or by-law or regulation of said city, describing it by the title), which said ———— is now in force as the complainant believes; therefore, you are commanded to arrest the body of the said A. B., and to bring him before me forthwith, to answer to the city of Menomonie, on the complaint aforesaid.

C. D.,
Justice of the Peace.

Upon the return of the warrant, the justice shall proceed summarily with the case, unless it

Duties of justice after return of warrant.

be adjourned by consent or for cause. If the cas be adjourned, the defendant, if required by th court so to do, shall recognize, with security t be approved by the court, for his, her, o their appearance, in such sum as the court shal direct, or in default therefor, may be put in charg of the officer who made the arrest, or be com mitted to the common jail of Dunn county, an shall be received and kept therein the same as i criminal actions, except as modified by this act, o the ordinances, by-laws or regulations of said city The complaint made as aforesaid shall be th only complaint required; and the plea of not guilt shall put in issue all subject matter embraced i the action.

Printed copy shall be prima facie evidence.

SECTION 33. A printed copy of an ordinance by-law or regulation passed by the common coun cil, and published in a newspaper, or in pamphlet or in book form, purporting to be published b authority of the common council, shall be *prima facie* evidence of its due passage and publication and shall be received in evidence on trial of al cases cognizable before any court of this state.

Witnesses and jurors shall attend without pre-payment of fees.

SECTION 34. Witnesses and jurors shall atten before the justices of the peace in all city an criminal suits, without the payment of fees i advance, or a tender thereof, upon process dul served, and in default thereof their attendanc may be compelled by attachment.

Right of trial by jury.

SECTION 35. In city prosecutions both plaintif and defendant shall enjoy the right of trial by jury as in civil actions in justices' courts, and the find ings of the court shall be guilty or not guilty. I guilty, the court shall render judgment thereo against the defendant, for the fine, penalty, or for feiture presented in this act, or in the ordinanc by-law or regulation, for the violation of whic the person or persons shall have been adjudge guilty, and for costs of suit; but if not guilty, th costs of suit shall be taxed against the city. Upo the rendition of judgment against the defendan and the nonpayment thereof, the justice sha forthwith issue execution, as in cases of tort, i case the action was commenced by summons, an a commitment in case it was commenced by wa rant, and shall, in either case, determine and ente upon his docket the length of time the defendan shall be imprisoned, which in no case shall excee six months, and also insert such time in the exe

cution or commitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF DUNN, } SS.
City of Menomonie, }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of said city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Menomonie, on the ——— day of ———, 18—, recovered a judgment before the undersigned, justice of the peace in and for said city, against ——— ———, for the sum of ——— dollars, together with ——— dollars and ——— cents, costs of suit, for the violation of (section —— of this act, or section —— of an ordinance, or by-law, or regulation of said city, (describing it by its title), you are hereby commanded to levy distress of the goods and chattels of the said ——— ———, excepting such as the law exempts, and make sale thereof, according to law, to the amount of said sums, together with your fees, and twenty-five cents for this writ, and the same return to me within twenty days; and for want of such goods and chattels whereon to levy, to take the body of said ——— ———, and him convey and deliver to the keeper of the common jail of Dunn county, and the said keeper is hereby commanded to receive, and keep in custody in said jail, the said ——— ——— for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he is discharged by due course of law.

Given under my hand, this —— day of——, 18—.

C. D., Justice of the Peace.

Form of commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting all that which relates to the levy and sale and return of writ.

Regarding appeals.

SECTION 36. In any case, the defendant may appeal from such judgment to the circuit court of the county of Dunn; provided, that such defendant within twenty-four hours enter into a recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice, from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall

forthwith, cause the summons or warrant and re turn, together with the proceedings and a copy o the entries in his docket in the action, togethe with the recognizance, to be filed in the office o the clerk of said court; and the city may appea from any such judgment, as in other cases befor justices of the peace.

Appeal to stand for trial.

SECTION 37. Said appeal shall stand for trial b jury, unless a jury be waived in the manner pro vided by law, in said circuit court, at the nex term thereof, after the day the judgment of th justice shall be rendered, unless continued fo cause.

Court to inflict penalty.

SECTION 38. If the judgment of the justice shal be affirmed, or if, upon the trial, the defendan shall be convicted, the court shall inflict the pen alty provided by this act or the ordinance, by-law or regulation under which he or they are prose cuted, and enter judgment against him or them and his or their sureties for such penalty, together with the costs in both courts, and enforce th same by execution as in actions of tort.

Not to work incompetency.

SECTION 39. No person shall be an incompeten judge, justice, witness or juror by reason of his being an inhabitant of said city in any proceedin or action in which the city shall be a party in in terest.

Service of summons, how made.

SECTION 40. When any suit or action shall b commenced against said city, the service thereo may be made by leaving a copy of the summons with the mayor, or clerk of said city, and it shall be the duty the said mayor or clerk so served, forth with, to inform the city attorney thereof, or t take proceedings as by ordinance or resolution of the common council of said city may be, in such cases provided. Judgments against said city shall be collected in the same manner as judg ments against towns.

No city officer to go on bond unless approved.

SECTION 41. No alderman, or other city officer shall be accepted as surety upon any bond, note or obligation executed to the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed and approved, as by this act provided.

COMMON COUNCIL.

What constitutes the common council.

SECTION 42. The mayor and aldermen shall con stitute the common council, and the style of all

ordinances shall be: "The common council of the city of Menominie do ordain," etc. The council shall meet at such time and place as it by resolution shall direct. A majority of the aldermen shall constitute a quorum.

Meetings of council.

SECTION 43. The council shall hold stated meetings, and the mayor may call special meetings by notice to each of the members, to be served personally, or left at their usual places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members; and have power to compel the attendance of absent members and enforce its rules; to punish by fine and imprisonment, by a vote of two-thirds its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds, its members may expel any member for cause.

GENERAL POWERS OF COUNCIL.

Powers of council.

SECTION 44. The common council shall have the control and management of the finances, and of all property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of the trade, commerce and health, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such ordinances, rules and by-laws are hereby declared to be, and have the force of law; provided, they are not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority, by ordinances, resolutions or by-laws:

License and regulate amusements, liquor selling.

1st. To license and regulate the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard or pool tables and bowling saloons, and to provide for the abatement and removal of nuisances under the ordinances, or at common law; and to grant licenses for selling spirituous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualing

houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less than the amount fixed and provided by the laws of the state.

Gaming, fraudulent devices.

2d. To restrain and prohibit all descriptions of gaming, and fraudulent devices and practices, and all playing of cards, dice and other games of chance for the purpose of gaming in said city, and to restrain any person from vending, giving or dealing in spirituous or vinous liquors, unless duly licensed by the common council.

Riots, etc.

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Nauseous places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses.

5th. To direct the location and management of slaughter houses and markets, and to prevent the erection, use or occupation of the same where the offal or filth thereof, shall discharge into the waters of the creeks or river; and to establish

Vendors of gunpowder.

rates for, and license vendors of gunpowder, and to regulate the storage, keeping and conveying of the same or other explosive materials.

Improvement of streets.

6th. To provide for the making, grading, improving and repairing the streets of the city of Menomonie, and to provide for the making, constructing and repairing gutters and sidewalks in said city, and to prevent the encumbering of the streets, sidewalks, lanes and alleys with carriages, sleighs, boxes, lumber, firewood, or other materials or substance whatever.

Horse racing, bathing, etc.

7th. To prevent horse racing and immoderate driving or riding in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

8th. To restrain the running at large of horses, mules, cattle, swine, sheep, poultry and geese, and

to authorize the distraining, impounding and sale of the same.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances of said city. Dogs.

10th. To prevent persons from bringing, depositing or having within said city, or placing in the waters adjacent to said city, any putrid carcass or other unwholesome or nauseous substance, and to require the removal of the same by any person who shall have upon his premises, any such substance, or putrid, or unsound beef, pork, hides or skins of any kind, or on default, to authorize the removal by some competent officer at the expense of such person or persons. Unwholesome substances.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants of the city; to regulate and to license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city; and to erect lamps and to provide for lighting the streets, public grounds and public highways, with gas or otherwise. Public pounds, water works and street lamps.

12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use from taxation. Boards of health, bills of mortality, burial grounds.

13th. To establish the assize and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Size of bread.

14th. To prevent all persons riding or driving any horse or mule, cattle and other animals on the sidewalks in said city, or in any way doing damage to such sidewalks. Driving on sidewalk.

15th. To prevent shooting off fire-arms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to citizens thereof. Fire arms, fire crackers.

16th. To restrain drunkards, immoderate drinking, obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Drunkards.

17th. To restrain and regulate runners and

Runners, solicitors, etc. solicitors for boats, vessels, stages, cars, public houses and other establishments.

Regulation of police. 18th. To make rules and ordinances for the government and regulation of the police of the city.

Public markets. 19th. To establish public markets and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for interrupting or interfering with the due observance of such rules and regulations; to license and regulate butchers' stalls, shops and stands for the sale of game, poultry, meats, fish and other provisions.

Weighing and selling hay, etc. 20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same.

Removal of snow and dirt. 21st. To compel the owners of buildings, or grounds, or the occupants, where the same are occupied, to remove snow, dirt or rubbish from the sidewalks, street or alley opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substance as the board of health shall direct; and in his default, to authorize the removal, or destruction of the objectionable substance, by some officer of the city, at the expense of such owner or occupant; provided, however, that snow shall be removed from the sidewalks of vacant or unoccupied lots, at the expense of the city, by the street commissioner, or by such other person or persons, as the council may employ.

Contagious or infectious diseases. 22d. To regulate, prevent and control the landing of persons from boats, cars and stages, wherein are contagious and infectious diseases, or disorders, and to make such disposition of such persons as to preserve the health of the city.

Auctioneers. 23d. To regulate the time and manner of holding public auctions and vendues, and to regulate the sale of goods, wares, and merchandise and other property at public auction, and to grant licenses for the sale of goods, wares and merchandise and other property at public auction, and to prescribe and fix the amounts to be paid for such licenses; provided, it shall not be lawful to charge less than five dollars, ($5) nor more than five hundred dollars, ($500) for any such license for

one year; and provided also, that nothing in this section shall prohibit, or affect in any manner, sales at auction in cases specified in section 1585 of the revised statutes.

24th. To appoint watchmen and to prescribe their duties. Watchmen.

25th. To provide by ordinance for a standard of weights and measures, and for the punishment of any person using or keeping any false weights and measures. False weights.

26th. The common council shall have jurisdiction over the streams within the limits of said city, and may enact and enforce ordinances or by-laws for the preservation of fish in the waters thereof, so as to prohibit, regulate or license the taking or killing of fish in the waters thereof, at any time; and may also, by ordinance or resolution, prevent any deterioration of the said waters, or any nuisance being cast therein, by which the health of the inhabitants of the city, or the purity of the waters shall be impaired, as it shall deem expedient. Jurisdiction over streams.

SECTION 45. No appropriation shall be made, nor shall any debt be created or liability incurred against the city, except by a vote of a majority of all the members of the council; and all laws, ordinances, rules and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council; and all ordinances, before the same shall be in force, shall be signed by the mayor; and all resolutions or measures for the appropriation of money, whereby a debt shall be created against, or a liability incurred by the city, shall be approved by the mayor before the same be in force; and all ordinances shall be published in the official newspaper, printed at the city of Menomonie, before the same shall be in force, and within fifteen days after publication, such publication being duly approved by the affidavit of the printer, or foreman of the printers, of such newspaper, the city clerk shall record such ordinance and affidavit in a book provided for that purpose, and such affidavit shall be *prima facie* evidence of such publication. No appropriation except by a majority of council.

SECTION 46. The power conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disor- Power conferred shall not bar or hinder suits.

derly taverns, and houses or places where spiritu ous, vinous or fermented liquors are sold withou the license required therefor, houses or building of any kind, wherein more than twenty-fiv pounds of gunpowder are deposited, stored o kept at any one time, are hereby declared an shall be deemed public or common nuisances.

Examination and adjustment of accounts.

SECTION 47. The common council shall exam ine, audit and adjust the accounts of the clerk treasurer, marshal, street commissioner, and a other officers or agents of the city, at such tim as it deems proper, and also at the end of eac year, and before the time for which the officers o said city are elected or appointed, shall have ex pired. And the common council shall requir each and every such officer or agent, to exhibit hi books, accounts and vouchers, for such examina tion and settlement; and if any such officer o agent shall refuse to comply with the orders o the council, in the discharge of their said duties in pursuance of this section, or shall neglect or re fuse to render his accounts, or present his book and vouchers to said council, it shall be the dut of the common council to declare the office of suc person vacant; and the common council shall or der suits and proceedings at law against any off cer or agent of said city who may be delinquen or defaulting in his accounts, or in the discharg of his official duties, and shall make a full recor of all such settlements; and the common counc shall have power, by an affirmative vote of two thirds of its members, upon reasonable notice, fo cause, to remove from office, any officer of the city elected by the common council, or whose appoin ment shall have been confirmed by it.

OPENING OF STREETS, ALLEYS, ETC.

May take land for streets.

SECTION 48. The common council shall hav power to take, for the use of the city, in the man ner hereinafter provided, any lots or any land fo public squares, grounds, streets and alleys, and t widen or straighten the same, or for the purpos of erecting a public hall, market house, fire en gine house, or any building in the constructio of water works, or for flowing the same, for sup plying the city with water, or any other lawfu municipal purpose, or for erecting hospitals o pest houses, for the prevention of contagiou or infectious diseases within the city, or fo

any needful or convenient purpose in connection with, or to execute and accomplish any other power, right, or privilege, conferred on, or granted to the city by its charter, or any act amendatory thereof, or by any act of the legislature; and may take the same, and whether within or without the city, by conveyance from the owner upon a bargain and sale, or upon a donation thereof, or in manner as follows: Whenever it shall, in the opinion of the common council, be necessary, said council shall declare, by resolution, that it is necessary to take any such lots or lands for any of the purposes above set forth, giving the description of the premises, defining separately each parcel thereof, separately owned, and the purpose for which they are to be taken. The common council shall thereupon cause a written notice, as prescribed in the next section, to be served upon the occupant or occupants of such lands, and the owner or owners of the same, if the place of residence of such owner, or owners, is known, or can be ascertained by reasonable diligence, when such residence is within this state, and in case such owner or owners are non-residents of the state, or their place of residence, after due diligence by the city attorney of said city, cannot be ascertained, which fact shall be made to appear by his affidavit, then the common council shall cause service of such notice to be made on such non-resident owner or owners, or the owner or owners, the residence of whom cannot be ascertained, by causing the same to be published for six weeks in the official paper of the city, at least once each week, and by causing such notice to be mailed, postpaid, to the address of such owners within five days from the time of the first publication of such notice, when the post-office address of such owner is known.

Publication of notice.

SECTION 49. Such notice shall be signed by the city clerk, or city attorney, and shall state the adoption of the resolution and embrace a copy thereof, and further, that at a time and place therein named, not less than ten days after the service of such notice, or the expiration of such publication, as the case may be, application will be made to the judge of the circuit court for said county of Dunn, for a jury to enquire and determine whether it is necessary to take the land or any part thereof, described in such resolution, for

Notice, by whom signed.

the purposes therein specified. Such notice shal
further state the time and place at which such
jury will be applied for, to meet and discharg
such duty; and the judge aforesaid shall fix th
time and place so named in the precept hereafte
mentioned, and no other notice thereof shall b
necessary.

Appointment of jurors.

SECTION 50. At the time fixed in said notice fo
the appointment of such jurors, the judge name
in said notice, upon proof of the service of th
same on the owner or owners of the premises de
scribed in such notice, which proof shall be made i
the same manner as is now required to make proo
of the service of a summons in civil actions i
courts of record in this state, shall appoint twelv
competent persons, having the qualification o
jurors in and for the county of Dunn, and not res
dents of the ward in which such premises ar
situated, not interested in such application, bu
residents of the city shall not be disqualified; pro
vided, that if the owner of the land sought to b
taken, shall, before said judge shall appoint such
persons, demand in writing that the jury be take
from any other county in such judicial circuit, the
said judge shall appoint such jury from person
having the qualifications of jurors in such othe
county in the circuit, as shall be designated b
such land owner in his demand for the enquir
to be made respecting his lands. The same right
of challenge peremptorily, or for favor or cause
may be exercised by the city attorney, and by suc
land owner whose land is sought to be taken, o
by his agent or attorney, as a party to a civil ac
tion in the circuit court is entitled to have, and th
judge shall decide the same in like manner, an
replace the name of any jurors successfully cha
lenged, by the name of some other competen
person, until a jury of twelve be chosen. Th
said judge shall thereupon issue his precept d
rected to such jurors, requiring them and each o
them, to appear before him, on the day named i
the notice for such jurors to meet for the dis
charge of their duties under such appointmen
The precept so issued may be served by the sheri
of said county, or by any public officer of said city
The jurors so chosen, shall, before entering upo
the performance of their duty, take an oath befor
such judge faithfully and impartially to discharg
their duty as such jurors, and a true verdict giv

whether it is necessary to take such lands, or any part thereof, mentioned in such resolution for the purpose therein specified.

In case jurors are disqualified.

SECTION 51. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, the judge shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

Jurors to examine premises.

SECTION 52. The said jurors shall forthwith, under the direction of said judge, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by said judge; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jury shall deliberate apart, and render verdict.

SECTION 53. After having made such view and heard such testimony as shall have been produced, the said jury shall, under direction of said judge, deliberate apart, and return their unanimous verdict, in writing, signed by them, in which they shall find and state whether it is necessary to take the whole of the lands described in such resolution, for the purpose therein specified, or any part thereof, describing particularly the part to be taken, if they find only a part thereof so necessary. Such verdict, with all the papers, proceedings and testimony had before him and said jury, shall then be forthwith filed by said judge with the clerk of the circuit court for Dunn county, together with a certificate by said judge that the same are the originals, and the whole thereof. The clerk shall, on application, furnish a certified copy of the same, or any part thereof, which shall have the same force and effect as the originals. In case any jury called under the provisions of this charter shall disagree, another jury shall be forthwith selected in like manner, and all the like proceedings thereafter had, as hereinbefore provided for the first jury, except that the said judge shall fix a reasonable time for the assembling of such jury, in the precept therefor, but no other notice thereof shall be necessary to any party; and the like steps shall be taken in case of any further disagreement, until a verdict shall be found.

Proceedings, in case premises are needed.

SECTION 54. Should the necessity for the taking of the premises, or any part thereof, mentioned in the resolution of the council, be so established by

the verdict of the jury, then the common counc
may enter an order directing the city attorney t
proceed to procure, to be assessed and appraised
the damages to the owner or owners of the prem
ises so found necessary to be taken, by reason o
the taking of the same for the purpose specified
The city attorney shall thereupon make applica
tion to the judge of the circuit court, or judge o
the county court for Dunn county, briefly settin
forth the fact that the necessity for taking suc
premises has been so established by the verdict o
a jury, and praying the appointment of three com
missioners, to appraise the damages of each an
all of the several owners of such lands, and show
ing the amount of land, giving the metes an
bounds thereof, the purpose for which the same i
to be taken, and the names of the several owner
so far as the same are known to the city attorney
Five days' notice of the time and place when suc
application will be presented to such judge, ac
companied with a copy of such application, shal
then be served on each owner in the cases whe
required and in the manner provided in sectio
thirty-six of this act. At the time and place de
signated, such judge shall hear all parties inte
ested who appear, and shall appoint three disinte
ested and reputable freeholders of said county a
such commissioners, by his order in writing, t
ascertain and appraise the compensation to b
made to the owners of, or persons interested in th
land so found necessary to be taken, and fix th
time and place for the first meeting of said com
missioners.

In case buildings are on premises.

SECTION 55. If there should be any building
standing, in whole or in part upon the lands to b
taken, the commissioners, before proceeding t
make their assessment, shall first estimate an
determine the whole value of such building to th
owner, aside from the value of the land, and th
injury to him in having such building taken fro
him, and secondly, the value of such building t
remove.

Personal notice of removal shall be given.

SECTION 56. At least ten days' personal notic
of such determination shall be given to the owne
or his agent, if known, and a resident of the city
or left at his usual place of abode. If not know
or a non-resident, notice to all persons intereste
shall be given by publication in the official pape
three successive weeks; such notice shall specif

the building and the award of the commissioners. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the commissioners and allow such building to be taken with the land appropriated, or their intention to remove such building, at the rate set thereon by the commissioners to remove. If the owner shall agree to remove such building, he shall have such time for this purpose as the common council shall allow.

If owner refuses to take buildings at value assessed.

SECTION 57. If the owner refuses to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the council shall have power to direct the sale of such building at public auction, for cash, giving ten days notice of such sale. The proceeds shall be paid to the owner or deposited for him in the city treasury.

Duties of commissioners in regard thereto.

SECTION 58. The commissioners shall take and subscribe the oath prescribed by the twenty-eighth section of the fourth article of the constitution before entering on the discharge of their duties. A majority of them may adjourn the proceedings before them, from time to time, in their discretion. They shall cause notice to be given to each party interested of the time when, and place where, they will meet to consider the amount of compensation to which he is entitled, which notice shall be personally served on such party, or his authorized agent or attorney, or by leaving the same at his residence or place of business, with a person of suitable age and discretion, at least six days before the time of such meeting. If such party is a non-resident of this state, or his residence is unknown, and he has no authorized agent or attorney in this state, such notice shall be published in a newspaper as aforesaid, for such length of time as the court or judge appointing said commissioners shall direct. The commissioners shall file a proof of such notices, or of the appearance of such parties before them, either personally or by attorney, with their report. But it shall not be necessary to serve or publish notice of any subsequent meeting held pursuant to adjournment.

Commissioners required to view the premises, and mode of procedure.

SECTION 59. The commissioners shall view the premises described in the petition, and hear the allegations of the parties, and shall appraise, ascertain and determine the value of each tract or

parcel of land proposed to be taken, with the in provements thereon, and of each separate estat therein, and the damages sustained by the owne by reason of the taking thereof, and fix th amount of compensation to be made to each such owners therefor; and in fixing the amount such compensation, said commissioners shall no make any allowance or deduction from the valu of the real estate taken, on account of any real supposed benefits which the parties in interes may derive from the construction of the propose improvement, for which such real estate may b taken; but special benefits to the real estate ad joining the lands so taken, shall be allowed i deduction of any damages sustained by the owne to such adjoining real estate. In case of an building on the land, and proceedings shall hav been taken as provided in sections 55, 56 and 5 the said commissioners shall include the value such building as estimated by them, less the pro ceeds of the sale thereof, or if taken by the owne at the value to remove, in such case, they sha only include the difference between such valu and the whole estimated value of such building A majority of the commissioners, all being pres ent, shall be competent to determine all matter before them. The commissioners shall, withi twenty days, after viewing any of the lands s taken, make and file in the office of the clerk the circuit court of such county, a report of thei proceedings concerning such lands, setting fort the award made for each tract or parcel thereo or separate estate therein, to the owner or owner thereof. The commissioners shall be entitled t such compensation as the court may direct, whic shall be paid by the city.

If they belong to different persons.

SECTION 60. If the lands or buildings belong t different persons, or if the lands be subject to lease judgment, or mortgage, or if there be any estate i it, less than an estate in fee, the injury done t such person or interest respectively, may b awarded to them by the commissioners, less th benefits resulting to them respectively from th proposed improvement.

When improvements shall be ordered to be made

SECTION 61. Whenever the commissioners sha have completed their duties, and filed the report o their proceedings and determination, as befor provided, the common council may, if they sha deem it expedient, by resolution or ordinance

order such improvement to be made, and the land which has been so found necessary to be taken therefor, to be taken and used; and in such case the city shall be absolutely liable to the owner or owners, or parties entitled thereto, for all compensation that may be established against said city therefor; and the council may also, in that case, make an assessment of the compensation to be paid therefor, with the costs of proceedings, or such part thereof as they shall determine to be just, upon the lands found by them to be directly benefited by such improvement, in such proportion to the benefits enjoyed as they shall determine. If the council shall not deem it expedient to make such improvement, they may, by resolution, order all further proceedings to be discontinued.

Right of appeal granted.

SECTION 62. Any person being dissatisfied with the amount of compensation for property taken, or the amount assessed as benefits, shall have the right to appeal to the circuit court within twenty days from the time of awarding of compensation or assessment of benefits, by serving on the mayor or city clerk a notice of appeal therefrom, and giving a bond to the city in not less than one hundred dollars ($100), to be approved by the mayor, acting mayor or city clerk, to pay all costs of appeal in case the appellant shall not, upon such appeal, increase the amount of compensation or decrease the amount assessed as benefits, as the case may be. The common council may appeal in behalf of the city by giving notice to the opposite party without giving bond. Upon filing such notice with the clerk of the circuit court, the appeal shall be considered an action pending in court for trial there, as other actions, and shall be entered by the clerk upon the records of the court, by setting down the party appealing as plaintiff and the other party as defendant. Such appeal shall be tried by jury, unless a trial by jury be waived by both parties; costs shall be allowed to the successful party in accordance with the conditions of the said bond.

Report shall be recorded, and manner of settlement of amount awarded.

SECTION 63. The report of the commissioners shall be recorded by the clerk of the court, in whose office the same is filed, in the judgment book of such court, and at any time after the making of such award, the city may set apart in its treasury, to the order of the owner or owners of the lands

so taken, or pay the same to such owner or owners or to the clerk of said court for the use of such owner or owners, the amounts awarded by the commissioners, and thereupon may enter upon take and use the land for the purposes for which it was condemned, and may obtain from either of said judges, upon twenty-four hours' notice, a writ of assistance to put its officers or agents into possession of the same. If such city be in possession, or put in possession of such land, pending an appeal, the owners or parties entitled thereto shall be entitled to receive the money paid into court, or set apart in the city treasury on account of the award appealed from, without prejudice to the appeal taken, but if the city shall have appealed, such money shall only be so withdrawn by leave of court, upon filing a bond in such sum and with such surety, as shall be approved by the court or judge, to repay the amount by which such award shall be abated on such appeal, with costs. If any defect of title to, or incumbrance upon any parcel of the premises, shall be suggested in said petition, or if any party to said proceeding, or any person not a party, shall petition to the said court, setting up a claim adverse to the title set out in said petition to said premises, and to the money, or any part of it, to be paid as compensation for the property so taken, the court shall hear and determine the right of the parties to said money, and for that purpose may order a reference or an issue to be tried by a jury. Either party may except to the decisions of the court and appeal to the supreme court, in like manner as in actions. Either court may award costs to the prevailing party, and render judgment therefor against the other party.

Property in question under lease.

SECTION 64. When the whole of any lot or tract of land, or other premises under lease or under contract, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties touching the same, or any part thereof shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

When only a part is under lease.

SECTION 65. When only a part of lot, or tract of land, or other premises so under lease or contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respectively, the same, upon the confirmation of

such report, shall be absolutely discharged as to the part thereof so taken, but shall remain valid as to the residue thereof; and the rents, considerations and payments reserved, payable, and to be paid for, and in respect to the same, shall be so proportioned that the part thereof, justly and equitably payable for such residue thereof, and no more shall be paid or recoverable for in respect to the same.

Infant in law.

SECTION 66. When any known owner of lands or tenements, affected by any proceedings under this charter, shall be an infant, or labor under any disability, the judge before whom the proceedings are pending, may, upon application of the council, or such party, or his next friend, appoint a guardian for such party, in the same manner as in a civil action, in a court of record, and all notices required by this charter, shall be served on such guardian.

Defects or informalities may be amended.

SECTION 67. The judge, or court, before whom proceedings are pending, shall have power at any time, to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary, or to cause new parties to be added, and to direct such further notices to be given to any party in interest, as he deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Division of costs.

SECTION 68. Whenever any improvement chargeable to the property adjacent thereto, shall have been determined upon, the proportion of the costs properly chargeable to each lot, part of lot, or parcel of land, subject to contribute to the payment of the same, shall be ascertained by the council, and the city clerk shall forthwith issue to each person occupying such premises, liable to contribute, a certificate, stating the amount assessed and chargeable to the premises, occupied by such person; and the amount so chargeable to any particular lot, or parcel of land, shall be, from the time it is so ascertained, a lien and charge thereon, and upon no other property; and the said amount shall be entered against such lot or lots, in the tax warrant for the year in which the assessment is made, and collected in the same manner as other taxes.

Accurate survey to be made

SECTION 69. Whenever any public grounds, street or alley, shall be laid out, widened or en-

larged, or other public improvements made und
the provisions of this chapter, or this act, the co
mon council shall cause an accurate survey a
profile thereof to be made, and filed in the office
the city clerk.

Power to change the name of streets.

SECTION 70. The council shall have the pow
to change the name of any street, and to vaca
any plat, or portion thereof, that may be pe
tioned for by the proprietor of such plat, or a
person interested therein; but no petition for su
vacation shall be acted upon, unless notice of su
application to the council shall have first been pu
lished in the official city paper, for at least t
weeks prior to the meeting of the council.

Roads and streets on unplatted lands.

SECTION 71. Roads or streets may be laid o
by the council, through unplatted lands, in t
same manner as roads are laid out by supervis
in towns.

Directions, only directory.

SECTION 72. All the foregoing directions, giv
in this chapter, shall be deemed only directo
and no error, irregularity, or informality of any
the proceedings, under the provisions of this a
not affecting substantial justice, shall, in any w
affect the validity of the proceedings.

CITY IMPROVEMENTS.

City improvements.

SECTION 73. The council shall have power
order and contract for the making, grading, pa
ing, macadamizing, repairing and cleaning
streets, alleys, public grounds, reservoirs, gutte
sewers, drains, sidewalks and crosswalks, in t
manner hereinafter mentioned, and direct a
control the persons employed therein, and prov
for the payment of the costs, charges and exp
ses incurred thereby, out of the city moneys,
cept for such sidewalks as shall be ordered bu
and maintained by owners of lots, as hereinaf
provided.

Building of sidewalks.

SECTION 74. The common council shall ha
power, and may order sidewalks built upon eit
side of any street, upon a petition of a majority
the owners of the lots (residing thereon) abutti
on the side of the street upon which said sidew
is proposed to be built. The cost of building a
maintaining such sidewalks shall be paid by
owners of such lots; provided, that in the ev
of the cost of construction or of rebuilding,
replacing such sidewalk, on the grade on wh
such sidewalk is so required to be built, sh

exceed the cost of construction on a level, the amount of such excess shall be allowed by the council to such lot owners, and the amount of such excess paid by the city; such excess of costs to be estimated by the street commissioner.

How sidewalks shall be ordered built, modus operandi.

SECTION 75. Whenever the common council shall order the building of a sidewalk, it shall, by resolution, designate the grade upon which the same shall be built, fix the width thereof, the material of which it shall be built, and the time allowed for the construction thereof, and shall give notice to the owners of the lots liable to build the same, as hereinafter provided. The street commissioner shall serve a notice, containing such resolution, upon the owners of the lots liable to build such sidewalk, personally, or if not found, then by leaving a copy with some member of his family, of suitable age, at the residence of such owner, if a resident of the city, commanding them to build such sidewalk within the time designated in the resolution. If service cannot be had as above provided, or if said lot owner is not a resident of said city, then service shall be made by publishing said notice, at least two weeks in the official paper of said city, and said commissioner shall make return to the city clerk of such service. At the expiration of the time fixed for building such sidewalk, the street commissioner shall proceed to build such portions of said sidewalk as may be unfinished, and upon the completion thereof, make a statement in writing to the council, specifying the lots abutting on such sidewalk so built by him, and the cost of each portion abutting each respective lot, verified by his affidavit. The council shall, upon the receipt of such statement, appropriate from the general fund of the city the amount of such cost. The amount so appropriated shall be charged to the lots so returned, and if not sooner paid, shall be entered by the city clerk in the next annual tax roll opposite the lots so returned, in the same manner as other taxes are entered, but in a separate column under the head of sidewalk taxes; provided, that the amount so charged shall not exceed the cost of building such sidewalk upon level ground.

Poll tax.

SECTION 76. The common council shall have, and it is hereby granted, power to annually levy a tax of one dollar and fifty cents ($1.50) upon each male inhabitant of the city of Menomonie, who is

over the age of twenty-one years and under th age of fifty years, excepting disabled soldiers wh served in the late war, paupers, idiots and lun tics. Such tax shall be paid in money and sha be denominated a poll tax. The common counc shall levy such tax by resolution, not later tha the first Monday in May of each year. Upon th adoption of such resolution by the common cou cil, the city clerk shall immediately proceed make a list of all persons residing in said city wh are liable to pay such tax, and attach thereto, warrant directed to the street commissioner said city, and commanding him to forthwith co lect such tax from the persons charged therewi upon said list, which warrant shall be signed b the mayor and countersigned by the city cler The city clerk shall deliver such list with the wa rant attached, to the street commissioner, on before the first day of June in each year. Th

Duty of street commissioner.

street commissioner, upon the receipt of such li shall proceed to collect the poll taxes charg thereon, in the same manner as overseers of hig ways in towns are authorized to collect highwa taxes in money, and for that purpose he shall ha all the powers and authority possessed by ove seers of highways in towns, and he shall add the said list the names of all persons liable to p such tax, which shall have been omitted, and c lect in the same manner the tax of the persons added. The poll taxes so collected, shall be expend in building and repairing roads, streets and hig ways under the direction and by order of the co mon council. The street commissioner shall a nually, not later than the first day of Decemb make a report in writing to the common coun giving the amount of such poll taxes by him c lected, the names of the persons paying, and t amount by him expended and place and mann of such expenditure, which report shall be ve fied by his affidavit.

Stagnant waters.

SECTION 77. The council shall give notice to owners or occupants of lots, which may deemed injurious to health by reason of stagna waters remaining thereon, in the official paper f two weeks, to abate such nuisance by draining filling such lot within a reasonable time therein be specified, and if such nuisance shall not abated or removed within the time so specifie the council shall cause the same to be abated a

removed, at the expense of the property upon which the same may exist.

Owner may take an appeal.

SECTION 78. In all cases where work is ordered to be done by the owner of any lot, under the provisions of this chapter, such owner may make his appeal, as hereinbefore provided, at any time within twenty days after the publication of the notice required to be given, and while such appeal is pending, no such order shall be executed.

Powers of street commissioner.

SECTION 79. The general powers and duties of the street commissioner, shall be the same as overseers of highways in towns, except as otherwise herein provided. It shall be the duty of the street commissioner to see that all ordinances of the city, relating to the streets, alleys, public grounds, reservoirs, gutters, sewers, waters of the river and water courses in said city, are duly observed and kept, and direct and control the persons employed therein; and he shall have a general supervision over all work let by contract for the improvement of streets or sidewalks in said city, unless the council shall otherwise provide. Such street commissioner, shall be under the direction and control of the council, and he shall make no orders, or give any directions for the improvements of streets, unless such improvements have previously been authorized by the council, or a committee of the council, acting under authority. Whenever any places occur in any street, whereby the life or property of persons using the street becomes endangered, the street commissioner shall proceed at once to repair such street, to a safe and passable condition.

Further duties of street commissioner.

SECTION 80. It shall also be the duty of the street commissioner, whenever, in his opinion, any portion of a sidewalk shall be out of repair, or in a dangerous condition, to serve a written notice upon the owner or occupant [of the lot] adjacent to which such defective sidewalk shall be, if a resident of said city, to immediately repair the same; and if said owner or occupant fail to repair the same forthwith, then, and in that case, the same may be repaired by the street commissioner, at the expense of the lot adjoining said defective sidewalk; provided, however, that the expense to be charged to any lot, for any such repairs, shall in no case exceed the sum of five dollars, unless such repairs shall be [made] according to the provisions of this act; service of such writ-

ten notice at the residence of the owner or occ
pant of such lot, upon a member of his family
suitable age and discretion, or with the age
of the owner, shall be deemed service upon su
owner or occupant; and in case the owner of su
lot is not a resident of said city, or his residen
is unknown, and such owner has no agent in sa
city known to the street commissioner, then, a
in that case, it shall be the duty of the street co
missioner to forthwith repair the same witho
notice to the owner of the adjoining lot, at the e
pense of such lot, as hereinbefore provided. T
street commissioner shall also have the sa
powers and duties in relation to removing obstr
tions from any of the streets in said city, as to
boards of supervisors have, in removing obstr
tions from highways. The city shall not be lia
for any services ordered to be performed by t
street commissioner, unless provision is made
paying therefor, at the time such services a
ordered.

Removal of dirt, gravel, etc.

SECTION 81. Any owner of a lot may remo
the earth, gravel or material of any kind from t
street, adjacent to his lot, prior to the grading
the same, at his pleasure, but in doing so, he sh
not impair the usefulness of the street. The str
commissioner, however, may take material fr
any point in the street to make ordinary a
necessary repairs elsewhere upon such street, b
in so taking material he shall do no damage to t
adjacent property. When any street shall ha
been ordered graded, and the time for doing su
work shall have expired, without its having be
performed, the city may take such material fr
the street in front of, or adjacent to, any lot as
not necessary for the purpose of bringing su
street along such lot to the established grade,
may authorize any person to take it, and use
upon any street of the city, or for any other p
pose, as to it may seem best.

Term of office of street commissioner.

SECTION 82. The street commissioner shall h
his office for the term of one year from the seco
Tuesday in April, of the year in which he v
elected, unless removed by the council, and sh
before entering on the duties of his office, giv
bond to the city of Menomonie, with one or m
sufficient sureties, to be approved by the coun
in the penal sum of not less than five hundred d
lars, ($500) conditioned to render an account to

council, whenever required by law, or the ordinances of said city, or by a vote of said council, to safely keep and account for, and deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse and pay over, as required by law, or the ordinances of said city, all moneys that may come into his possession, as such officer, and to faithfully discharge the duties of said office.

Inspector of alleys, and his duties.

SECTION 83. In order to secure a proper and faithful observance of the ordinances of the city, relating to the cleaning of alleys, the council may appoint an inspector of alleys. If the power conferred by this section be exercised by the council, it shall, by resolution, designate the blocks which shall be under his supervision, and shall define his duties, and in the discharge of them he shall be invested with all the authority of the street commissioner and a police officer. The council may provide for defraying the expenses incurred under this section, by levying a special tax on each lot placed under the supervision of the inspector of alleys, not exceeding one dollar for each lot, in any one year.

Purchase a stone crusher.

SECTION 84. The council shall have power to purchase a stone crusher and to purchase stone and cause the same to be broken and prepared for use in improving the streets of the city, and in cases where owners of lots are required by ordinance to improve the streets in front of the lots owned by them, and broken stone are required to be used in making such improvements, the council may sell to said owners of lots, the stone required, at a price not exceeding the cost thereof. The council may, with the consent of the sheriff, or of the board of supervisors of Dunn county, deposit stone when brought upon the grounds connected with the jail of said Dunn county, and may use in breaking said stone such labor of prisoners under sentences in said jail, as the sheriff will furnish, or may use said labor in breaking stone, or in doing any other work in any part of the city.

Ornamental trees, how to be planted.

SECTION 85. The council shall have power to require the owner of any lot or grounds in said city, to set out ornamental or shade trees in the street in front of the same, and to protect and preserve them, and, in default thereof, to cause the same to be done, and to levy a special tax upon such lot or

grounds, to pay the expense of the same. It sha
also have power to determine the lines o
which the trees shall be set, the places where the
shall be set, the kind and size of the trees to
set, and the manner of protecting them, and f
replanting them, when they have died or been
injured as to fail to answer for the purpose f
which they were set out, and to prohibit the se
ting out of any trees that may be regarded
nuisances, and to order their removal when the
have hitherto been set out. It shall also ha
power to provide for, and direct the trimming o
shade trees to proper proportions, and to do a
other needful acts as to them may seem just an
proper, to give this section proper effect.

FINANCES AND TAXATION.

Control of funds.

SECTION 86. All funds in the city treasury, e
cept school, state and county funds, shall be und
the control of the council, and shall be drawn o
upon the order of the mayor, countersigned
the clerk, duly authorized by a vote of the co
mon council, and in no other manner; and
orders drawn upon the treasury shall specify t
purpose for which they are drawn, and shall
payable generally out of any funds in the treasu
belonging to the city. All orders shall be payal
to the person in whose favor they may be draw
or to the bearer thereof.

No debt contracted or orders drawn unless by majority vote.

SECTION 87. No debt shall be contract
against the city, or orders be drawn on the ci
treasury, unless the same shall be authorized
a majority of the common council, and the vo
authorizing the same, in case it exceeds fifty d
lars, shall be entered by ayes and nays upon t
journal of the council, and no money shall be a
propriated for any purpose whatever, except su
as is expressly authorized by this act, and for t
payment of indebtedness now existing.

Forfeitures go to city.

SECTION 88. All forfeitures and penalties acc
ing to the city for a violation of this act,
any of the ordinances, by-laws, rules and regu
tions of the city, and all moneys received
licenses, shall be paid into the city treasury, a
become part of the general fund, except as oth
wise provided by this act. No penalty or jud
ment recovered in favor of the city, shall be
mitted or discharged, except by a vote of thr
fourths of all the aldermen elect.

All property subject to taxation.

SECTION 89. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation, for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers, and perform the same duties as are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of the assessment roll, and more fully define the duties of assessor.

City regarded as a town for equalization purposes.

SECTION 90. The county board of supervisors shall have the right to regard the city of Menomonie as a town in equalizing the assessment rolls of the several towns in Dunn county as provided by law; but in such equalization, shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Supervisors may levy tax on city.

SECTION 91. The said board of supervisors, may levy a tax or taxes, as now is, or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city clerk, in the manner provided by law, in relation to towns or town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Tax for general expenses.

SECTION 92. The council shall annually, not later than the second Thursday in November of each year, by resolution, levy such taxes upon the taxable property of the city, as will, in its opinion, be required to defray the general expenses of said city for the year next ensuing; provided, that such tax levy shall not exceed one and one-half (1½) cents on each dollar, of the taxable property of the said city, as shown by the last assessment roll of said city. It shall also, at the same time and in the same manner, levy a tax not exceeding one mill on each dollar valuation, for a library fund.

Tax roll.

SECTION 93. The city clerk shall make the tax roll of the city, in the same manner and form and

at the same time, as required by chapter 48 of th revised statutes of 1878.

Treasurer shall collect taxes.

SECTION 94. The city treasurer, upon the re ceipt of such tax roll, shall proceed to collect th same, and in like manner, and shall have like pow er and be subject to like requirements, liabilities and restrictions as town treasurers, except as oth erwise provided in this act. All taxes may be pai to the treasurer before the first day of January i each year without any addition thereto for treas urer's fees. To the taxes paid after the first da of January, five (5) per cent. treasurer's fees sha be added, which fees, when collected, shall be pai into the treasury of the city for the benefit of th general fund.

Sale of delinquent lands.

SECTION 95. The county treasurer shall sell a delinquent lands and lots returned from the cit of Menomonie, at the same time, and in the sam manner, as other delinquent lands are sold in th county.

Special taxes on exempt property.

SECTION 96. All real estate exempt from taxa tion by the laws of this state, shall be subject t all special taxes, for the building of sidewalks an improvements of streets in front of the same.

Exemptions.

SECTION 97. All lands lying within the cit limits that are used, occupied, reserved and hel exclusively for agricultural purposes, shall be e empt from all special taxes levied for the purpo of purchasing fire engines, parks, public square and for water and gas purposes.

Tax for purchase of fire engines.

SECTION 98. In addition to the amount here limited for taxes for general city purposes, speci taxes may be levied for the purchase of fire e gines, cemetery grounds, public squares, gas pu poses and other objects of public utility; but n such tax shall be levied unless the same shall fir be recommended by the common council, an afterwards submitted to a vote of the people an approved by them. Whenever the council sha recommend such a tax, it shall specify th amount to be raised, and the object thereof, an cause notice thereof, and of the time and place voting thereon, to be published in the same ma ner as in case of the annual city election.

Kind of money treasurer shall receive.

SECTION 99. The city treasurer shall recei nothing but national currency, treasury note coin, or coin certificates, for taxes, licenses or oth dues of the city, and is prohibited from receivi county, city, school or other orders in payment

city dues. It shall be the duty of the council to always provide for the prompt payment of all orders drawn on the city treasury, and it shall have power to negotiate temporary loans, at the legal rate of interest, for the supplying of all funds to meet any deficiency in the treasury.

In case treasurer is short of funds.

SECTION 100. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council. Thereupon the council shall direct its finance committee to examine the accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

State tax shall first be paid, others in order.

SECTION 101. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then judgments; then all special taxes, in the order in which they were levied; then taxes for bridge purposes; then taxes for fire purposes; then taxes for streets and other public improvements; and lastly, county taxes. Delinquent returns, shall be received by the county treasurer, in payment of county taxes, in the manner prescribed by the general laws of the state.

Disposal of unfinished business.

SECTION 102. The council shall meet on the last Thursday in March of each year, for the purpose of disposing of its unfinished business, and shall not thereafter, during its term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers, for the balance of their terms.

Disposal of surplus funds.

SECTION 103. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, except school funds, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interests and profits arising from such investment shall belong to the city, and shall be accounted for in the same manner that other funds are accounted for.

Soldiers' monument may be erected.

SECTION 104. The council shall have power to provide for the erection of a monument to the memory of those of her citizens, who lost their lives during the late rebellion, at such time and in such place as it may direct, and for that purpose may levy a tax to pay for all necessary expenses incurred, without submitting the same to a vote of the people.

FIRE DEPARTMENT.

Protection against fire.

SECTION 105. The council, for the purpose guarding against the calamities of fires, shall ha power to prescribe the limits within which wood buildings, or buildings of other materials th shall not be considered fire-proof, shall be erect repaired or moved, and to direct that all and a buildings within the limits prescribed, shall made and constructed of fire-proof materials, a to prohibit the removal of buildings into such f limits, or the removal of any building or buildin situated or located within said fire limits, to, or any other lot or lots within such fire limits, and prohibit the repairing of wooden buildings with the fire limits, when the same shall have be damaged to the extent of fifty per cent. of t value thereof, and to prescribe the manner of certaining such damage.

Regulation of, and building of chimneys, etc., and sundry precautions for protection against fires.

SECTION 106. The council shall have power regulate the building, construction and conditi of chimneys, fire-places, hearths, stoves, sto pipes, boilers, apparatus used in any building, a to cause the same to be removed or placed i safe and secure condition, when considered da gerous; to prevent the deposit of ashes in uns places; to require the inhabitants to provide many fire buckets, and in such manner and ti as they shall prescribe, and to regulate the use them in time of fire; to regulate and to prevent t carrying on of any manufactories dangerous causing and promoting fires; to compel the own and occupants of buildings to have scuttles in roofs, and stairs or ladders leading to the sa to authorize the mayor, aldermen, fire w dens and other officers of the city, to k away from the vicinity of a fire, all idle and s pected persons, and to compel bystanders to aid the extinguishment of fires, and in the preser tion of property exposed to danger thereat, a generally to establish such regulations for the p vention and extinguishment of fires, as the co mon council may deem expedient, and enfo the provisions of this act and the ordinances un it, by suitable penalties.

Formation of hook and ladder companies.

SECTION 107. The council shall have powe authorize the formation of fire engine, hook a ladder and hose companies, provide for the and proper regulation of the same, and to disba

any such companies at any time, and to prohibit their meetings as such, when disbanded; which companies shall be officered and governed by their own by-laws; provided, such by-laws be not inconsistent with the laws of this state, or with the ordinances and regulations of the city, and shall be formed only by voluntary enlistment. Every member of any company in said city, shall be exempt from serving on juries and from poll tax, and military duty, except in cases of war, invasion or insurrection; and whenever a member of a fire, hook and ladder, bucket and hose company, shall have served therein for ten years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

Fire tax.

SECTION 108. The council shall have power to raise a tax each year, not exceeding five (5) mills on the dollar of the taxable property within said city, for fire purposes; the same to be assessed and collected in the same manner as the general tax of said city; and the moneys arising therefrom, shall be expended under the direction of the council of said city for fire purposes.

Organizing sack companies, and their duties.

SECTION 109. The council shall have power to organize sack companies, to consist of not more than thirty members each. Such companies shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said companies, either collectively or individually, are hereby authorized and empowered to act as special police in and for said city, and are hereby vested with all the power and authority which now is, are, or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department; at fires they shall take charge of all the property which may be exposed or endangered, and shall, as far as it may be in their power, preserve the same from injury or destruction; such companies may, from time to time, adopt such by-laws and regulations as they may deem necessary, not inconsistent with the laws of this state. The members of said companies shall not be entitled to receive pay or compensation for services rendered in their official capacity. They shall, in case of riot or disturbance of the peace, have free access to all licensed places of amusement in the city,

and shall perform such services as may be nec
sary for the peace and good order of the sa
The members of said companies shall severa
take an oath or affirmation, that they shall fai
fully discharge the duties of their said office, a
when any member shall cease to be a mem
thereof, by resignation, expulsion or otherwis
notice thereof shall be given to the city cle
and he shall preserve a list of all members of e
of said companies.

SCHOOLS.

Superintendent of schools to be member of board of education.

SECTION 110. The superintendent of scho
shall be a member of the board of education, a
shall perform such duties as pertain to his of
and are required of him by the provisions of t
act.

Women eligible to be school superintendent.

SECTION 111. Every woman of the age
twenty-one years and upwards, residing in
city, shall be eligible to the office of superinte
ent of schools, and to the board of education.

Board of education, by whom composed.

SECTION 112 The school commissioners, in c
junction with the superintendent of schools
said city of Menomonie, shall constitute a bo
to be styled, "The board of education of the
of Menomonie." Said board shall appoint a
hold stated meetings, and a majority thereof sh
constitute a quorum for the transaction of bu
ness. At the first meeting of said board in e
year, the members thereof shall elect one of
number president, and whenever he shall be
sent, a president *pro tem.* may be appointed.
superintendent of schools shall be clerk of s
board, whose compensation shall be fixed by
council. The said commissioners shall not rece
any compensation for their services.

Clerk shall keep a record.

SECTION 113. The clerk of said board shall k
a record of the proceedings thereof, and perfo
such other duties as the board may prescr
which record, or a transcript thereof, certified
the president and clerk, shall be received in
courts and places, as *prima facie* evidence of
facts therein set forth, and such records, and
books and accounts of said board, shall at all ti
be subject to the inspection of the council, and
any committee thereof; and the said superinte
ent, shall examine all teachers making applicat
to teach in the public schools of said city; all cer
cates to teachers, granted by said superintende

shall be substantially in the form as prescribed by the state superintendent of schools. The clerk of said board shall visit all schools in said city, at least once in each month, and report their condition to the board of education, with such suggestions for their improvement as he may deem proper. He may also make such suggestions to said board as he may deem necessary for improving and repairing school houses, grounds, fences, and appurtenances thereto belonging.

Clerk shall make report to state superintendent, what to contain.

SECTION 114. The clerk of said board shall, in each year, and at the time and in the manner now and hereafter to be required by law, make and transmit to the state superintendent of public instruction, a report in writing, which report, in form, shall be such as is now, or may hereafter be required by law, to be made annually to the state superintendent. He shall also make and submit to the council, at least ten days before the annual election in each year, a report showing the receipts and expenditures by the board since the report made to the council at its first meeting in July. Such account need only show the gross amount of receipts from each of the various sources, and gross amount of expenditures for each of the various purposes required to be reported. Such report shall include salaries of teachers, and all other expenses up to the close of the terms of office of the board, on the second Tuesday in April, and all salaries or bills that will be due at that time, may be paid before making the report. The report shall also show the gross amount of receipts and expenditures since the preceding annual report. If the receipts or expenditures since the July report, are more or less than estimated in the July and October reports, the report shall state the amount, more or less, and the report shall also state whether, and if any, how much more, or less than estimated in July and October, will be needed for the entire school year, ending in June.

Salary of superintendent of schools.

SECTION 115. The salary of the superintendent of schools shall be fixed by the council, not to exceed two hundred dollars ($200) a year, payable quarterly at the end of each quarter.

Ordinances for protection of school houses.

SECTION 116. The council of said city, shall have power to pass such ordinances and regulations as the board of education may report as necessary and proper, for the protection and safe-keeping, care and preservation of school houses in said

city, and lots and appurtenances to the schoo
and also to impose penalties for the violati
thereof. All such penalties shall be collected
the same way that other penalties, authorized
be imposed by said council under the act of whi
this act is amendatory, are collected.

Title of school houses to be vested in city.

SECTION 117. The title of the school hous
sites, furniture, apparatus and appurtenances, a
all other property mentioned by this act, shall
vested in the city of Menomonie, and the san
while used or appropriated for school purpos
shall not be levied upon, or sold by virtue of a
warrant or execution, nor be subject to taxati
for any purpose whatever, and the said city sh
be able to take, hold and dispose of any real
personal estate, transferred to it by gift, grant,
quest, or devise, for the use of the schools of sa
city, whether the same shall be transferred
terms to said city by its proper style, or by a
other designation, or to any person or persons,
body, for the use of said schools.

Treasurer of city to demand money from county.

SECTION 118. The treasurer of said city is here
authorized, empowered and directed to apply f
demand and receive from the county treasurer
Dunn county, all moneys appropriated for the u
of schools in said city, and all other moneys
possession of said county treasurer, at any ti
raised, appropriated or intended for the use a
benefit of schools in said city, and the said coun
treasurer is hereby directed and required, on
mand of the said treasurer, to pay over to him t
said moneys without delay or set off, taking
receipts as such treasurer therefor, and all su
moneys shall be placed to the credit of the sch
fund of said city.

Power and duty of board of education.

SECTION 119. The said board of education sh
have power and it shall be its duty:

1st. To establish and organize such and so ma
schools in said city, or the several wards there
as they shall deem necessary and expedient, a
to alter and discontinue the same.

2d. To have the custody and safe-keeping of t
school houses, out-houses, books, furniture a
appendages, and to see that the ordinances a
regulations of the common council in relati
thereto, are observed.

3d. To contract with, and employ in behalf
the city, all teachers in the common and wa
schools, and such other schools as may be under t

direction of said board, who shall have been licensed by said board, and at their pleasure to remove them.

4th. To have, in all respects the superintendence, supervision and management of all the public schools in said city, and from time to time to adopt, alter, modify and repeal, as it may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils, and their transfer from one school to another, and generally for the promotion of their good order, prosperity and utility.

5th. Whenever, in the opinion of said board, it may be advisable to sell any of the school houses, lots or sites, or any of such school property, now or hereafter belonging to the city, to report the same to the council.

6th. To prepare and report to the council, such ordinances and regulations, as may be necessary or proper for the protection, safe keeping, care and preservation of school houses, lots, sites, and appurtenances, and all the property belonging to the city, connected with, or appertaining to the schools, and suggest proper penalties for violation of such ordinances and regulations, and annually to determine, and certify to the council, at its first meeting, in October, of each year, the amount of money, in its opinion, necessary or proper to be raised for school purposes, specifying the sum required for each of the purposes therein mentioned, and the reason therefor.

7th. In the name of the city of Menomonie, to contract, subject to the approval of the council, for the repair of school houses and their appurtenances, and for all things necessary or proper for the support and maintenance of schools in said city, and to superintend the erection, construction and repair of all school houses, and generally, to have the entire and exclusive supervision and control of all property, belonging to said city, used for said purposes. The board of education shall have the power, by, and with the consent of the council of said city, to erect, construct, hire and purchase buildings suitable for school houses, buy and lease sites for school houses, with the necessary grounds, and to furnish the school houses in said city, with the necessary fixtures, furniture and apparatus.

SECTION 120. The council of said city of Menom- School tax.

onie, shall have power to annually levy and colle
a school tax, not exceeding one (1) per cent., on a
real and personal property of said city, to meet th
expenses of erecting and repairing school house
purchasing, or hiring sites for school houses, ar
supporting and maintaining schools.

Audit accounts.

SECTION 121. It shall be the duty of the boar
of education to audit each and every indebtedne
of said city for school purposes, and to issue orde
therefor, signed by the president and clerk of th
board of education; and all moneys received b
or raised in the city of Menomonie for school pu
poses, shall be disbursed on the said orders of th
president and clerk of the board of educatio
and in no other manner. The city treasurer ar
his sureties, shall be liable for all school funds tha
come into his hands, and for payments not a
thorized by this act.

Non-resident children allowed to attend either schools upon payment of tuition.

SECTION 122. The said board of education sha
have power, to allow the children of persons n
residents of said city, to attend in either of th
schools therein, under the care and control of sa
board, upon such terms as said board shall by re
olution prescribe, fixing the tuition which sha
be paid therefor; all moneys so received for tu
tion, shall become a part of the school fund
said city. It shall be the duty of the board
education to report to the council at its fir
meeting in the month of July of each yea
the condition of the several schools of said cit
and the average number of pupils in attendanc
the names and rate of compensation of the se
eral teachers, the cost of supporting each and a
of said schools since the previous report, and th
estimated cost thereof, to the time of their ne
succeeding report, as in this section required, spe
ifying the items thereof under their appropria
heads, together with such other matters as the
may deem proper, or the council may requir
provided, that nothing in this act contained, sha
be deemed to authorize said board of education,
the council, or both, to appropriate, contract
extend for school purposes in any one year, an
greater sum than is provided for in section 115
this act, in addition to the school moneys derive
by said city from the state and county scho
funds, and such fines, forfeitures, penalties an
tuition moneys, as may properly belong to th
city school fund, unless first authorized theret

by a vote of two-thirds of the legal voters of said city.

SECTION 123. All lands formerly in school district No. 1, of the town of Menomonie, which are not included within the limits of the city of Menomonie, shall be attached to, and become a part of the school district in the town of Menomonie, upon which such lands adjoin. The council of the city of Menomonie, and the supervisors of the town of Menomonie, are hereby authorized and empowered to meet and make an order attaching such lands to said school districts, in the same manner as though such lands were a part of a joint school district. Limits of school district.

SECTION 124. The city treasurer is hereby authorized to demand of, and receive from the former treasurer of school district No. 1, of the town of Menomonie, such moneys as were in his hands at the time of the adoption of the charter of the city of Menomonie, belonging to said school district, and give his receipt for the same to said district treasurer. Said receipt, when given, shall release said school district treasurer and his bondsmen, from all liability for such money. City treasurer to demand moneys from former treasurer.

MISCELLANEOUS PROVISIONS.

SECTION 125. The credit of the city shall never be given or loaned in aid of any individual, association or corporation. Credit of city shall never be loaned.

SECTION 126. The city shall have no power to borrow money, or contract any debt, which cannot be paid out of the revenue of the current year. May borrow money.

SECTION 127. No extra compensation shall be allowed to any officer, agent, servant or contractor after the service shall have been rendered, or the contract entered into, nor shall any compensation be paid to the mayor or any alderman for their services. No extra compensation shall be allowed.

SECTION 128. The council shall settle all just claims and demands against the city, and settle with the treasurer annually, and publish accounts of the receipts and expenditures of the city, for the information of the citizens. Council shall settle all claims against city.

SECTION 129. In all prosecutions for any violation of any of the provisions of this act, or any by-law or ordinance, the first process shall be by a summons, unless oath be made for a warrant as in other cases. Prosecution to be commenced by summons.

Execution to be issued forthwith.

SECTION 130. Execution shall issue forthwith on the rendition of the judgment, unless the same be stayed or appealed according to the laws of this state. The execution shall require the defendant in any such action, in case no goods or chattels, lands or tenements whereof the judgment can be collected, be found, to be imprisoned in the jail of Dunn county for a term not exceeding three months, in the discretion of the justice or judge rendering judgment, unless the same be sooner paid or discharged by the common council.

Process, how served.

SECTION 131. No person shall be an incompetent judge, justice, witness, or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which said city shall be a party in interest.

Shall not work incompetency.

SECTION 132. When any suit or action shall be commenced against said city, the service of process therein, may be made by leaving a copy thereof, by the proper officer, with the mayor and it shall be the duty of the mayor forthwith to inform the council thereof, or take such other proceedings as, by the ordinances or resolutions of said council, may be in such case provided.

Regarding judgment against city

SECTION 133. When a judgment shall be recovered against the city of Menomonie, or against any city or ward officer, in an action prosecuted by, or against such officer, in his name of office where the same should be paid by the city, no execution shall be awarded or issued upon such judgment, except as herein provided; but the same, unless reversed, shall be levied and collected as other city taxes, and when so collected, shall be paid, by the city treasurer, to the person to whom the same shall be adjudged, upon the delivery of a proper voucher therefor; but if any payment thereof be not made within sixty days after the city treasurer is required to make his return of taxes, next, after the rendition of such judgment, execution may be issued thereon, upon the order of the court authorized to issue such execution, on special application therefor. No shall any real or personal property of any inhabitant of said city, or any individual or corporation be levied upon or sold, by virtue of any execution issued to satisfy or collect any debt obligation or contract of said city.

SECTION 134. The said city may lease, purchase

and hold real or personal estate, sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same shall be free from taxation; provided, that no debt shall be incurred in any such purchase, which cannot be paid out of the revenue of the fiscal year. City may hold real or personal estate.

SECTION 135. Every license issued by the authority of this act, or the ordinance of the city, shall be signed by the city clerk, and sealed with the corporate seal, but no such license shall be issued by said clerk, until the person applying for the same shall have deposited with the clerk, the receipt of the city treasurer, for the amount required to be paid therefor; nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors, unless the same shall have been authorized by the council, and the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the laws of this state, which shall be approved, either by the mayor or council; provided, that the sum to be paid for any such license, shall not be less than the amount fixed by the laws of the state, and that all licenses shall be granted to expire on the first day of May next following, in each year. Licenses shall be signed by city clerk.

SECTION 136. The use of the jail of Dunn county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of such county, for whose custody, safekeeping and delivery, the said sheriff shall be responsible as in other cases. But said county shall not incur, or pay any liability, or expense, on account of any person committed to said jail for the violation of any ordinance, by-law, rule or regulation of said city, but such expenses shall be paid by the city. Use of jail.

SECTION 137. Whenever the town board of supervisors of the town of Menomonie, in the county of Dunn, may deem it for the convenience and interest of the legal voters of said town, they are hereby authorized and empowered to select a place for the polls of any general or special election, or town meeting, at any suitable place within the limits of the city of Menomonie; provided, that such polls shall not be nearer to any poll of election in any ward of said city than three hundred feet, and notice of such elections and the place Selecting a a place for holding polls by town boards

where the same is to be held shall be given as provided by the laws of this state.

Town supervisors may hold meetings in city.

SECTION 138. It shall be lawful for the supervisors of said town, to hold their meetings for the transaction of town business, at any proper place within the city of Menomonie, and the town board may authorize and empower the town clerk and town treasurer of said town, to keep the books and papers in their respective offices at some suitable place within the limits of said city; provided, that the said city shall not be chargeable with, nor liable for any of the expenses arising or growing out of any of the provisions of this or the preceding section; and, provided further, that the place of meeting, and the places for the town clerk and the treasurer of the town, mentioned in this and in the preceding section, shall not be at any place or places of meeting of the common council, or of officers of the city without consent first being obtained of the common council.

Repealed.

SECTION 139. Chapter 102 of the laws of 1882 and all acts or parts of acts contravening the provisions of this act are hereby repealed.

SECTION 140. This act shall take effect and be in force from and after its passage and publication.

Approved March 19, 1883.

[No. 143. S.] [Published March 22, 1883.]

CHAPTER 86.

AN ACT to incorporate the city of Edgerton.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Corporate name.

SECTION 1. All that district of country herein after described, from and after the first Tuesday in April, A. D. 1883, shall be a city by the name of Edgerton, and the people now inhabiting, and those who shall hereafter inhabit the district of country hereinafter described, shall be a municipal corporation by the name of "the city of Edgerton," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, suing and

being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

Boundaries, city and ward.

SECTION 2. All of sections numbered three (3), four (4), and the northeast quarter ($\frac{1}{4}$) of section nine (9), and the north half ($\frac{1}{2}$) of section ten (10), all of town four (4), range twelve (12) east, all in the town of Fulton, in the county of Rock, state of Wisconsin, shall be included in, and constitute the limits and boundaries of the city of Edgerton. There shall be three wards, namely: Section three (3) shall be the First ward, section four (4) shall be the second ward, and the northeast quarter ($\frac{1}{4}$) of section nine (9), and the north half ($\frac{1}{2}$) of section ten (10), shall be the Third ward.

Corporate authority.

SECTION 3. The corporate authority of said city shall be vested in one principal officer, styled the mayor; in one board of aldermen, consisting of three members, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act.

Elections.

SECTION 4. The annual election for city officers, shall be held on the first Tuesday in April in each year, at such place as the common council shall designate; and polls shall be kept open from nine o'clock in the forenoon to five o'clock in the afternoon, with the proviso: That an adjournment may be had for one hour, between the hours of twelve o'clock M. and one o'clock P. M., upon due notice thereof given at the opening of the polls. Six days previous notice of such elections shall be given, signed by the clerk, stating the time and place of holding the same, and of the officers to be elected, which notice shall be posted in three public places in said city.

Officers to be elected.

SECTION 5. The elective officers of said city, shall be a mayor, a treasurer, one assessor, a clerk, one constable, two justices of the peace and three aldermen. The treasurer, assessor, clerk, justices of the peace and constable, shall be qualified voters and residents of the city of Edgerton; and the mayor and aldermen shall be qualified voters and freeholders in the city of Edgerton, and [the] aldermen shall be residents of the respective wards which they represent. All other officers necessary for the proper management of the affairs of said city, shall be appointed by the common council.

Of elective officers.

All elective officers, except justices of the pea
unless otherwise provided, shall hold their offi
for one year and until their successors are elect
and qualified: provided, however, that the co
mon council shall have power, for cause, to ex
any of its own members except the mayor, a
to remove from office any officer or agent, un
the city government, due notice in writing bei
first given to the officer complained of. The j
tices of the peace shall hold their offices for t
years, and until their successors are elected a
qualified.

Vacancies.

SECTION 6. Whenever a vacancy shall oc
in any office, such vacancy shall be filled by t
common council. The person elected or appoin
to fill any vacancy, shall hold his office and c
charge the duties thereof, for the unexpired te
and with the same rights and subject to the sa
liabilities, as the person whose office he shall
elected or appointed to fill.

Elections, how held.

SECTION 7. All elections by the people shall
by ballot, and a plurality of votes shall constit
an election. When two or more candidates
an elective office, shall receive an equal numbe

Tie vote.

votes for the same office, the election shall be
termined by casting lots in the presence of
common council, and in such manner as they sh
direct.

Qualified electors.

SECTION 8. All persons who are qualified el
tors of the state of Wisconsin and entitled to v
at a general election, and who have been ten d
next preceding any election, actual residents
the city of Edgerton, shall be entitled to vote
any officer to be elected, and be deemed qualif
electors at city elections.

First election, when and where held.

SECTION 9. The first city election of said city
Edgerton, for the election of city officers, shall
held on the first Tuesday in April, 1883, in
office of R. R. Brown, in said city, and at the ti
of opening the poll at said first election, the elect
present, shall choose, *viva voce*, from the qualif
electors present, three inspectors of election, a
two clerks of election, and the persons so cho
to act as inspectors and clerks, shall, before ent
ing on the duties of their offices, take and s
scribe the oath required of inspectors and cle
of general elections. Six days' previous notice
said first election shall be given, signed by
sheriff of Rock county, Wisconsin, stating

time and place of holding the same, and of the officers to be elected, which notice shall be posted in three public places in said city.

Manner of challenging votes.

SECTION 10. If either of the inspectors of elections shall suspect that any person offering to vote does not possess the requisite qualifications, or if any such vote shall be challenged by an elector, the inspectors, before receiving the vote of any such person, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be), that you are twenty-one years old; that you are a citizen of the United States (or have declared your intention to become a citizen, conformably to the laws of the United States on the subject of naturalization); that you have resided in the state of Wisconsin, one year; and that you are and have been for ten days an actual resident within this city, and that you have not voted at this election, and that you have made no bet or wager, depending on the result of this election." Which oath any member of the board of inspectors is hereby authorized to administer, and if the person so offering to vote, shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter, shall vote at any election, or shall vote more than once at any one election, he shall forfeit and pay a sum, not exceeding two hundred dollars ($200), nor less than twenty-five dollars ($25). It shall be the duty of the inspectors to keep a list of all the names of all persons whose votes may be challenged, and who shall swear in their votes, which list shall be filed with the city clerk. The penalty for any unlawful or illegal conduct of clerks or inspectors of election, shall be the same as that provided by statutes of this state, for similar conduct at any general election.

Who shall canvass votes.

SECTION 11. When the polls of an election shall be finally closed, the inspectors shall proceed to count and canvass the votes in each of the boxes, one box being completed before another is opened, and shall make a return of the number of votes for each and every office, and the number of votes for each and every person for each and every office, and shall deliver such return to the city clerk, immediately after such election, and shall declare the result

as it appears from the same. In all cases of the elec
tion, or appointment, of any person to office, th
common council shall file with the clerk a certifi
cate, signed by at least a majority of them, givin
the name of the person elected or appointed, and th
term for which he was so elected or appointed, an
the clerk shall record such certificate in a book, t
be provided for that purpose. Whenever a justice o
the peace, or city marshal shall be elected or ap
pointed, the clerk shall forthwith give notice there
of, in writing, to the clerk of the circuit court o
Rock county, giving both the names and term
for which elected, and upon the election of mayo
or treasurer, the clerk shall give like notices to th
clerk of the board of supervisors of Rock county
and those county officers, upon receiving such
notices, shall file the same in their respective offices

Special elections.

SECTION 12. Special elections shall be held an
conducted in the same manner, and the return
thereof shall be made in the same form and man
ner as regular elections, and within such time a
may be provided by the common council.

What is deemed a vacation in office.

SECTION 13. Any officer removing from th
city, or any officer who shall neglect or refuse fo
ten days, after his election or appointment, t
qualify, and enter upon the discharge of his duties
shall be deemed to have vacated his office, and th
common council shall proceed to fill such vacanc
as herein provided.

When term of office shall commence.

SECTION 14. The term of every officer electe
under this act, except justices of the peace, sha
commence on the second Tuesday in April of th
year for which, and in which, he was elected.

First election of officers.

SECTION 15. The first election of officers unde
the provisions of this act, shall be held on the firs
Tuesday in April, 1883; and at such election, on
justice of the peace shall be elected for one yea
and one justice for two years, and annually there
after, a justice shall be elected for two years, an
their terms of office shall commence on the firs
Monday in May; provided, that the justices o
the peace now residing within the said city o
Edgerton, shall hold their offices until their term
expire.

In case of failure to elect.

SECTION 16. Should there be a failure to elec
any officers, herein required to be elected, on th
day designated, the common council may order
new election to be held, ten days notice of th
time and place being first given.

SECTION 17. Every person elected, or appointed, to any office under the provisions of this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officer taking the same, with the city clerk. The treasurer, clerk, marshal, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Edgerton, a bond, with two sureties, to be approved by the common council or a majority thereof; and said common council may, from time to time, require new and additional bonds, and remove from office any officer refusing or neglecting to give the same. Oath of office.

SECTION 18. The mayor, when present, shall preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all executive officers of the city discharge their respective duties. The mayor shall be the chief executive officer, and the head of the police of the city; and in case of riot and other disturbance, or apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary. The mayor shall, in all cases, have a seat in the common council, and he shall vote in the common council only in a case of a tie vote; he shall give the common council such information, and recommend such measures as he may deem proper and advantageous to the city. The mayor shall have the power to veto any ordinance passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance. In case of no session of the common council, on any day after the passage of the same, and before the expiration of said seven days, such notification shall be made by filing with the city clerk a copy of his objections; and in case the council shall not at the next ensuing meeting, re-enact such ordinance by the vote of two-thirds of the aldermen-elect, and cause the same to be published, the same shall be null and void. The mayor shall represent the said city in the county board of supervisors of Rock county, Wisconsin, and in his absence or inability to act, the common Duties of mayor.

council shall designate one of their number t
represent said city. The common council shall, a
its regular meeting, after its election, choose on
of the board of aldermen, who shall be styled
president of the board of aldermen, and who, i
the absence of the mayor, shall act as such mayo
and have and possess all the rights and privilege
of such officer, and be subject to all the liabilitie
thereof, during the absence of such mayor.

Clerk. SECTION 19. The city clerk shall perform all th
duties required of him by law, and the ordinance
of the city. He shall be keeper of the books, re
ords and papers, and the corporate seal of the cit
and the records of the proceedings of the counci
and shall possess the same powers that town clerk
possess by law, to issue transcripts from the re
ords of his office, and they shall, when certifie
by him, be received in all courts in like manne
and effect. He shall perform the same duties i
regard to common schools in said city, that are b
the general laws imposed on town clerks. H
shall draw and countersign all orders on the trea
urer, and keep a record of the same. He shall fi
in his office all chattel mortgages left with him
be filed, and the renewals thereof, receiving th
same fees allowed to town clerks therefor, and th
said mortgages and renewals shall be as valid an
lawful as when filed in the office of tow
clerks; and the said clerk shall possess authorit
to administer oaths, and he shall receive such con
pensation as the common council shall provide b
ordinance or resolution.

Justice of the peace, and his jurisdiction. SECTION 20. The justices of the peace electe
under this act, or who hold over, shall have th
same and equal jurisdiction, and perform all an
like duties of justices of the peace under the ge
eral laws of the state of Wisconsin, and hav
furthermore, jurisdiction of all offenses again
the provisions of this charter, and the ordina
ces, by-laws and police regulations of the commo
council of the city, and shall qualify in the sam
manner as provided by the general laws of th
state, except that the official bonds or agreemen
required to be given by them, shall be approve
by the mayor of said city.

Treasurer. SECTION 21. The city treasurer shall perfor
all the duties required of him by law, collect a
city, county and state taxes, and pay over a
moneys in his hands according to law. He sha

keep in a proper book an account of all moneys received, and of all moneys paid out, and the same shall, at all times, be open to the inspection of the voters of the city. He shall make reports quarterly, and render an itemized account to the common council of all sums received, when and by whom the same was paid, and also of all moneys by him paid out, and all moneys raised, received, recovered or collected by means of any tax, license, penalty, forfeiture, fine, or otherwise belonging to said city under the authority of this act, shall be paid into the treasury of the city, and shall not be drawn therefrom, except by an order issued by order of the common council, and signed by the mayor or acting mayor, and countersigned or attested by the city clerk. The treasurer shall have the same powers, and be subject to the same laws and liabilities, and governed by the same laws, as treasurers of towns in this state; provided, that he shall receive no other fees, except the compensation hereinafter provided.

Marshal.

SECTION 22. The marshal shall perform such duties as shall be prescribed by the common council, for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city, or law of this state, may pursue and serve the same in any part of this state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend with or without warrant, any person in the act of committing offense against any ordinance of said city, or the laws of this state, and within a reasonable time bring such person before competent authority, for examination or trial, and for such services he shall receive such fees, as are allowed by law to constables for like services in this state. He shall have power to appoint one or more deputies, subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties. Such deputies shall also take and subscribe the

proper oath of office, which will be filed in the office of the city clerk, and when duly qualified as aforesaid, such deputies shall possess all the powers and authority, and be subject to the same liabilities with the marshal.

Penalty for failure to deliver to successor.

SECTION 23. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects belonging to said city pertaining to the office, he shall forfeit and pay to the use of the city, one hundred dollars ($100), besides all damages caused by his neglect or refusal to deliver over the same and such successor may recover possession of such books, papers and effects in the manner prescribed by law in this state.

Shall not be interested in any job.

SECTION 24. No mayor or alderman shall be a party to, or interested in any job or contract with the city, and any contract or job in which they, or either of them may be so interested, shall be null and void, and in case any money has been paid on such contract, the common council may sue for and recover back, the amount so paid from the parties to such contract, and the mayor or aldermen interested in the same.

Officers of the peace enumerated,

SECTION 25. The mayor, or acting mayor, each and every alderman, justice of the peace, marshal, deputy marshal, policeman and watchman and constables, of said city, and the sheriff of Rock county and his deputies, shall be officers of the peace, and may command the peace, and suppress in a summary manner all riotous or disorderly behavior within the limits of said city and, for such purpose, may command the assistance of all bystanders, and if any person, bystander, or private citizen shall refuse to aid in maintaining the peace, when so required, every such person so refusing, shall forfeit and pay a fine of not less than five (5) nor more than fifty dollars ($50).

Duties of justices of the peace.

SECTION 26. The justices of the peace of said city, shall possess and exercise the same and like powers, jurisdiction and duties, and shall be subject to the same liabilities and regulations, as are conferred upon and required of justices of the peace of the several towns of this state. All prosecutions for a breach or violation of any by-law ordinance or regulation, shall, in all cases, be commenced in the name of the city of Edgerton, and

the same proceedings shall be had in all civil and criminal actions before said justices of the peace, when not otherwise herein directed, as are established and required to be had in civil and criminal actions and proceedings by the laws of this state before justices of the peace; provided, that in a case of prosecution for a breach or violation of an ordinance, by-law or regulation of said city, on its charter, defendants shall have the same right of appeal under the same conditions and requirements, as now are, or may be provided by the laws of this state for taking appeals from justices' courts. All fines and penalties imposed for violation of any city ordinance, resolution, by-law or regulation, shall belong to and be paid over to the treasury of said city, and be a part of the finances thereof.

Further duties of justices.

SECTION 27. The justices shall account for and pay over to the treasurer of said city, all fines and penalties collected by him, and belonging to said city, within ten days after receiving the same, and take his receipt for the same in the docket. Said justices of the peace shall be entitled to receive, in all cases had before them, in which said city is interested, the same fees as are provided by law for justices of the peace of the several towns of this state, in similar cases had before them.

Assessor.

SECTION 28. The city assessor shall assess the real and personal property of said city, at the time and in the manner provided for assessing in the towns of this state, and shall perform all other duties prescribed and directed by this act for him to perform, and he shall receive a compensation therefor, as the common council shall prescribe, not exceeding two dollars ($2) per day.

Street commissioner.

SECTION 29. It shall be the duty of the street commissioner, within ten days after his appointment and qualification, to inspect all the streets in the city, and all sidewalks, crosswalks, ditches, gutters, sewers, culverts, bridges, and all things appertaining to the streets, and report in writing to the common council, recommending in his opinion, what is necessary and ought to be done thereto, in separate items, in the order of their first, second and third necessity, and so on to the end of his recommendations, under item number one, for the first necessity, item number two, for the second necessity, and so on to the end; and the city clerk shall lay said report before the common council

for information, and the common council may order said street commissioner to put in repair any such street or sidewalk, if in their opinion it is a matter of necessity.

Further duties of street commissioner.

SECTION 30. It shall be the duty of the street commissioner, to see that all ordinances of the city relating to the obstructions and cleaning or closing of sidewalks, crosswalks, streets, bridges, alleys, public grounds, gutters, sewers and waters in said city are duly observed and kept, and shall have the general supervision over all grading, paving, graveling, planking, repairing and cleaning streets, bridges, alleys, public grounds and gutters, and such other duties as the ordinances of said city may prescribe, and shall receive therefor, such compensation as the common council shall prescribe not exceeding two dollars ($2) per day.

Who constitute the common council.

SECTION 31. The mayor and aldermen shall constitute the common council, and the aldermen shall be inspectors of elections, and shall not receive any compensation for their services, unless they be acting as inspectors of elections, and the style of all ordinances shall be, "The common council of the city of Edgerton do ordain," etc. A majority of the aldermen shall constitute a quorum, but a less number may adjourn from time to time.

First annual meeting.

SECTION 32. The common council shall hold its first annual meeting in each year, on the first Tuesday after the regular city election, and thereafter, meetings at such times, as they shall appoint, and the mayor may call special meetings, by notices to each of the members to be served personally, or left at their several places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members by fine or otherwise.

Duties of common council.

SECTION 33. The common council shall have the control and management of the finances, and of all property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice, and for the prevention of crime, and for the benefit of trade and commerce and health, as it shall

deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such rules, ordinances and by-laws are hereby declared to be and have the force of laws; provided, they are not repugnant to the constitution and laws of the United States, or of this state.

Powers of council

SECTION 34. The common council shall have power to license and regulate the exhibition of common showmen and shows of any kind, or the exhibitions of caravans, circuses, or theatrical performances, billiard tables, bagatelle tables, pigeon-hole tables and bowling saloons, etc., and to provide for the abatement and removal of nuisances under the ordinances or at common law; and to grant, or withhold, licenses for selling spirituous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less nor more than the amount per annum, established by general laws of the state of Wisconsin, and that all such licenses hereafter granted, shall run from the first day of May in each year; provided, however, that when any license may be applied for after that date, the same may be granted to expire on the said first day of May of each year, and the applicant paying *pro rata* therefor; but no license shall be granted for a longer time or period than one year.

Gambling and fraudulent devices, etc.

1. To suppress, restrain and prohibit all descriptions of gambling, and fraudulent devices and practices, and all playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending or giving away, or dealing in, spirituous, fermented or vinous liquors, unless duly licensed by the common council; and to license, regulate and suppress hawkers and peddlers.

Noise and disturbance.

2. To prevent or regulate the blowing of steam whistles, and prevent riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purposes of gambling. No person shall be incapacitated, or excused from

testifying touching any offense committed agai
any of the provisions of this act, or any ordina
of the city of Edgerton, by reason of his or
being implicated in any such offense, but the t
timony of such witness shall, in no case be us
against such witness.

Nauseous and unwholesome places.

3. To compel the owner or occupant of a
grocery, cellar, tallow chandler's shop, soap f
tory, tannery, stable, barn, privy, sewer, or otl
unwholesome house or place, to cleanse, remo
or abate the same from time to time, as often
it may be necessary for the health, comfort a
convenience of the inhabitants of said city.

Slaughter houses.

4. To direct the location and management
slaughter houses and markets, and to prevent
erection of, use and occupation of the same, wh
offal or filth therefrom, shall discharge into
waters of the rivers, lakes, ponds or slough

Encumbering streets.

5. To prevent the incumbering of stree
sidewalks, crosswalks, lanes or alleys, with r
road cars, carriages, sleighs, boxes, lumber,
wood or any other materials or substances wh
ever.

Racing and immoderate driving.

6. To prevent horse racing and immoder
driving in the streets, and to regulate the pla
of bathing and swimming in the waters with
the limits of said city.

Restrain cattle.

7. To restrain the running at large of hor
cattle, swine, sheep, poultry and geese, and to
thorize the restraining, impounding and sale
the same.

Dogs.

8. To prevent the running at large of do
and to authorize the destruction of the same i
summary manner, when at large contrary to
ordinance.

Unwholesome substances.

9. To prevent persons from bringing,
positing or having within said city, any put
carcasses, or unwholesome substance, and
require the removal of the same, by any pers
who may have upon his premises any such s
stance, or putrid, or unsound beef, pork, fi
hides or skins of any kind, or, on default, to
thorize the removal thereof, by some compet
officer, at the expense of such person or perso

Pounds, wells, cisterns, etc.

10. To establish and make public pour
pumps, wells, cisterns and reservoirs of the ci
to regulate and license hacks, cabs, drays, ca
and charges of hackmen, cabmen, draymen a
cartmen in the city; and to erect lamps for lig

ing the streets, public grounds and public buildings with gas or otherwise.

Boards of health.

11. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate [the] burial of the dead, and the return of the bills of mortality, and to exempt burial grounds, set apart for public use from taxation.

Bread.

12. To establish the weight and size of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding or driving on sidewalks.

13. To prevent all persons riding or driving any horse or mule, or any other animal on the sidewalks of said city, or in any way doing damage to sidewalks and bridges.

Firearms and fire crackers.

14. To prevent shooting of firearms or fire-crackers, and to prevent the exhibition of fire works in any place or situation which may be considered by the common council dangerous to the city, or any property therein, or annoying to the citizens thereof.

Drunkenness.

15. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons, who may be guilty of the same.

Runners and solicitors.

16. To restrain and regulate runners and solicitors for stages, cars, public houses, and other establishments.

Regulation of police.

17. To make rules, regulations and ordinances for the government of the police of the city.

Markets, etc.

18. To establish public markets, and make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for attempting, or interfering with, the due observance of such rules and regulations; to license and regulate butchers' stalls, shops, stands for the sale of game, poultry, meats, fish and other articles.

Hay and fuel.

19. To regulate the place or places, and manner of weighing or selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same.

Remove snow, dirt, etc.

20. To compel the owners or occupants of buildings or grounds, when the same are occupied, to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant, to remove

from the lot owned or occupied by him, all su
substances as the board of health shall dire
and in his or her default, to authorize the
moval or destruction thereof, by some officer
the city, at the expense of such owner or oc
pant.

Contagious and infectious diseases.

21. To regulate, control and prevent the la
ing of persons from cars or other conveyan
wherein are contagious or infectious diseases
disorders, and to make such disposition of su
persons as to best preserve the health of the c

Auctions.

22. To regulate the time, place and manner
holding public auctions and vendues.

Watchmen.

23. To appoint watchmen and prescribe th
duties.

Weights and measures.

24. To provide by ordinance for a standard
weights and measures.

Monuments.

25. To protect trees and monuments in
said city.

Sewers.

26. To prescribe and regulate the construct
of sewers within the city.

Streets and highways.

27. To lay out, make, open, keep in rep
alter or discontinue any highways, streets, la
alleys, and to keep them free from any incu
brances, and to protect them from injury.

Names of streets.

28. To alter or change the name of any st
in the city.

School districts.

29. To consolidate or change the bounda
of school districts in said city, under the same
striction, and with the same power, as is now c
ferred on town boards under the general laws
the state.

Ordinances.

30. To make, ordain, amend and repeal
such ordinances, by-laws and police regulati
not contrary to the constitution of this state,
essary for the good order and government of
city, and which may be necessary or expedien
carry into effect the powers vested in the ma
and common council, or any officer of said
by this act, or which may be vested in any off
of said city by any ordinance thereof.

City actions.

31. To provide for the prosecution or defe
of all actions or proceedings in which the cit
interested, and employ council therefor.

City hall and engine house.

32. To purchase real estate, and provide
the erection of a city hall and engine houses.

Special tax.

33. To call a special election for the purp
of raising a tax, when, in its opinion, the amo
which it is authorized to raise by the provis

of this act, is insufficient to meet the requirements.

34. To establish grades of any and all the streets in the city, to cause sidewalks, gutters, and pavements to be constructed; and when a grade shall be established, it shall have such gradients as shall be sufficient to carry off all surface waters or other waters from whatever source, coming on the street or streets; and when a grade is so established, they shall cause an accurate profile to be made thereof, and filed with the city clerk, and all such grades shall be worked in exact accordance with such profile and the ordinance establishing the same. Regulate streets, etc.

35. To establish a fire department, and to provide for the due and proper support and regulation of the same, and to appoint or direct the election of such officers for such department, as they shall see fit, and to define their powers and duties, and to provide protection from fire by the purchase of fire engines, and all the necessary apparatus for the extinguishing of fires, and by the erection of pumps and construction thereof of water mains, reservoirs, or other water-works; to erect engine houses, to compel the inhabitants of the city to aid in the extinguishing of fires, and to pull down and raze such buildings in the vicinity of fires, as shall be directed by them, or any two of them, who may be present at the fire, for the purpose of preventing its spreading to other buildings; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes; to regulate the construction of, and cleaning of chimneys; to prevent bonfires, and the use of fire-works and fire-arms in the city, or any part thereof; to authorize fire wardens, at all reasonable times, to enter into and examine all dwellings, lots, yards, enclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in a safe condition; and generally to establish such necessary measures for the prevention or extinguishing of fires, as may be necessary and proper; and to declare by ordinance the punishment for violation of any such ordinance or regulation. Fire department.

SECTION 35. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote How laws and ordinances to be passed.

of a majority of the common council, and sh
be signed by the mayor, and shall be publish
in a newspaper published in the city of Edgert
or by posting in three public places in said ci
before taking effect; and within fifteen days the
after, they shall be recorded by the city cle
in books provided for that purpose; but bef
any such by-laws, ordinances or regulations sh
be recorded, the publication thereof, respective
within the same time, shall be proven by the a
davit of the foreman or publisher of the news
per in which the same shall be published, or wh
posted, by the affidavit of the clerk, who sh
post the same, and such affidavit shall be
corded therewith, and at all times shall be deem
and taken as sufficient evidence of the time a
manner of the publication or posting.

Rates for printing, etc.

SECTION 36. All printing and publication
quired by this act, or by the common council, sh
be let by said council at rates not exceeding
legal rates of advertising.

Shall not bar or hinder suits.

SECTION 37. The power conferred upon the s
council, to provide for the abatement or remova
nuisances, shall not bar or hinder suits, prose
tions or proceedings in the courts according
law. Gambling houses, houses of ill-fame, dis
derly taverns, houses or places where spiri
ous, vinous or fermented liquors are sold witho
the license required therefor, houses or buildings
any kind, wherein more than one hundred pou
of gunpowder are deposited, stored or kept at a
one time, are hereby declared and shall be deem
nuisances.

Common council shall audit accounts.

SECTION 38. The common council shall exami
audit and adjust the accounts of the clerk, treasu
street commissioner, marshal and other offic
or agents of the city, at such times as they m
deem proper; also at the end of each ye
and before the time for which the officers of s
city are elected or appointed shall have expir
and the common council shall require each a
every such officer and agent to exhibit his boo
accounts, and vouchers for such examination a
settlement, and if any such officers shall ref
to comply with the orders or requirements of
council in the discharge of their duties, in p
suance of this section, or shall neglect or ref
to render their accounts, or present their boo
and vouchers, to said council, it shall be the du

of said council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer, or person or agent of said city, who may be delinquent or defaulting in his accounts, or discharge of his official duties, and shall make a full record of all such settlements.

Funds shall be under control of common council.

SECTION 39. All funds in the treasury except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the council, and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city. All orders shall be payable to the person, or order of the person, in whose favor they may be drawn.

Poll tax.

SECTION 40. The common council of said city shall have and is hereby granted, power to tax annually each male inhabitant within the corporate limits of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents ($1.50) (to be denominated a poll tax), and in addition to said poll tax, the common council may levy upon all the taxable property in said city, a tax not exceeding five (5) mills on the dollar of the assessed valuation, as shown by the last assessment roll of said city, to be known as a street tax, the same to be used exclusively for the improvement of streets, walks and crossings within the limits of said city. The common council of said city shall annually levy upon the taxable property of said city, to defray the current and lawful expenses of said city, a tax sufficient to defray the same; provided, said common council shall not levy a tax for general purposes, exceeding one per cent. upon the assessed valuation of said city in any one year, unless authorized to raise a greater sum, by the majority of the electors of said city, at a general or special election. All taxes levied under this act shall be paid to the city treasurer in cash, except as hereinafter provided.

Issue of bonds.

SECTION 41. The common council of said city,

shall not have power to issue any bonds or o
evidences of debt, payable at a day subsequen
the date of the issue thereof, except in c
specially authorized by law, nor shall the c
mon council issue in any one year, orders u
the city treasury to an amount greater than
amount of taxes which may be levied under
provisions of this act.

Accounts shall be verified.

SECTION 42. No account shall be allowed by
common council, unless the same is properly
fied by the oath of the owner thereof, or s
person in his or her behalf, except it be for st
work or hire, under the supervision of the st
commissioner, duly certified by him.

Determination of board shall be final.

SECTION 43. When the claim of any pe
against the said city shall be disallowed, in who
in part by the common council, the determina
of the common council disallowing the same
whole or in part, shall be final and conclusive,
a perpetual bar to any action in any court, foun
on such a claim, unless an action to recover
same, shall be commenced within thirty days a
such disallowance by the common council of
city.

Annual report.

SECTION 44. The common council shall an
ally, on Tuesday next preceding the annual
tion, make a report showing in detail all
receipts and disbursements of the said city, for
past fiscal year, and cause the same to be
lished before the annual election.

Manner of laying out streets and alleys.

SECTION 45. The common council shall
power to lay out public streets and alleys, an
widen the same, as follows: Whenever five
more freeholders residing in said city, shall, by
tition, represent to the common council tha
is necessary to take certain lands within the
for the public use, for the purpose of laying
public streets or alleys, or the enlarging of
same, the courses and distances, metes and bou
of the lands proposed to be taken, together
the names and residences of the owners of
premises, if the same shall be known to the
tioners, to be set forth in such petition. The
mon council shall thereupon cause notice of
application, to be given on the owners or occup
of such lands, if any there be, or if any por
of said lands shall not be in the actual occ
tion of any person, then the common council
cause such notices, describing as near as may

the premises proposed to be taken, to be published in a newspaper published in said city, four weeks successively, at least once in each week.

What the notice shall state.

SECTION 46. Such notice shall state, that upon a day therein to be named, not less than ten days from the service of such notice, or expiration of such publication, as the case may be, application will be made to a court commissioner of said county of Rock, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary and proper, to take the same for the purposes specified in said petition.

Appointment of freeholders.

SECTION 47. Upon the presentation of such application, and upon proof of the publication, or service of the notice hereinbefore required, the said court commissioner shall appoint twelve resident freeholders, residents of said city, not interested in the result of such application. The said court commissioner shall thereupon issue his precept, directed to said jurors, requiring them, within ten days, to view the premises to be specified in said precept, and to make returns under their hands, to the common council, whether in their judgment, it is necessary and proper to take said premises, for the purposes specified in such application: and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties, as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Service of precept.

SECTION 48. The city marshal shall serve the said precept immediately on the jurors therein named, by reading the same to each one that can be found, and immediately after such service, he shall return the said precept to the court commissioner who issued the same, together with his doings thereon; and if the jurors so appointed cannot be found, or shall be disqualified from acting, or shall refuse to act, the court commissioner nall appoint others in their places, and a memorandum of such substitution, shall be indorsed on the precept.

Jurors shall view the premises.

SECTION 49. The said jurors, at such times as shall be designated in said precept, shall proceed in a body to view the premises in question, and

shall hear such testimony as shall be offered any party interested, which testimony shall reduced to writing, and either of the jurors sh be authorized to administer oaths to witness After viewing the premises in question and hea ing testimony, if offered, the jurors shall make report of their proceedings, which shall be sign by them, and which shall state whether, in th judgment, it is necessary to take the premises question for public use; which said report, tes mony and precept, shall be returned to the co mon council. Should the jurors report that it necessary to take the premises, the common cou cil shall enter an order among its proceedin confirming said report, and directing the sa jurors, within twenty days thereafter, to aga view the premises, to ascertain the amount damages to be paid to the owner or owners of sa property proposed to be taken; and to assess a return within the twenty days, such damages to t common council, who shall enter an order co firming the same.

In case there is a building.

SECTION 50. If there should be any building whole or in part, upon said lands, the land, and t injury to him in having such building taken fr him, and secondly, the value of such building him to remove.

Notice of removal to be given.

SECTION 51. At least ten days' notice of su determination, shall be given to the owner, or agent, if known and a resident of the city; if n known, or a non-resident, notice to all persons terested shall be given by publication in a new paper of said city, for three successive wee Such notice shall specify the building and t award of the jurors, and it shall require t parties interested, to appear by a day nam therein, and give notice of their election, to t common council, either to accept the award of t jurors, and allow such buildings to be taken wi the land appropriated, or their intention to move such building, and he shall have such ti to remove such building as the common coun may allow.

If owner shall refuse.

SECTION 52. If the owner shall refuse to take t building at the value assessed by the jurors remove, or fail to give notice of his election aforesaid, within the time prescribed, the comm council shall have power to direct the sale of su building at public auction, for cash, giving t

days' notice of such sale; the proceeds shall be paid to the owner, or deposited for his use. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgages, or if there be any estate in them less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

Jurors shall sign their award.

SECTION 53. The award of said jurors shall be signed by them and returned, together with the testimony taken and the precept, to the common council, within the time limited in such precept. Any person whose property is taken, or against whom any assessments are made, may, within ten days from the return of the jurors to the common council, appeal from such assessment of damages, to the municipal court of Rock county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond to said city conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; said bond to have a good and sufficient surety, to be approved by the clerk of said city, or county judge, or court commissioner.

Damages must be tendered before land is taken.

SECTION 54. The lands required to be taken for the purpose mentioned in this act, shall not be appropriated until the damages awarded therefor, to the owners thereof, or party entitled, shall be paid or tendered to the owner or party entitled thereto, or his agent, or, in case the owner or party entitled thereto, or his agent, cannot be found, or is unknown, deposit it to his credit in some safe place of deposit; and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds, opened or laid out. The damages assessed shall be paid within one year, or deposited, as herein required, and if not so paid, tendered or deposited within one year from the confirmation of such assessment, the proceedings shall be void.

Proceedings in case owner is an infant.

SECTION 55. When any known owner of lands or tenements, affected by any proceedings under this act, shall be an infant, or labor under legal disability, the county judge of Rock county, on the application of the mayor of the city, or such

party, or his next friend, shall appoint a guar
for such party, and all notices required by this
shall be served upon such guardian. When
any street, alley or public grounds shall be
out under the provisions of this chapter, the c
mon council shall cause an accurate survey
profile thereof to be made, and filed in the o
of the clerk.

All property liable to taxation, and manner of assessing described.

SECTION 56. All property, real or perso
within the city, excepting such as may be exe
by the laws of the state, shall be subject to t
tion for the support of the city governm
schools, and the payment of debts and liabili
and the same shall be assessed in the ma
hereinafter provided; and the assessor ele
under this act, shall have and possess the s
powers, that are, or may be conferred upon to
ship assessors, except so far as they may be alt
by this act; provided, that the common cou
may prescribe the form of assessment roll,
more fully define the duties of assessors,
make such rules and regulations in relation t
vising, altering or adding to such rolls as it
from time to time, deem advisable. When
assessment roll shall be completed, the asse
shall return the said assessment roll to
board of equalization of the city. The bo
of equalization may supply omissions in
roll, and for the purpose of equalizing
same, may alter, and add to, take from,
otherwise revise and correct the same. If it s
appear to the assessor that any lot or parce
land was omitted, in the assessment roll of ei
or both of the preceding two years, and that
same was then liable to taxation, he shall, in
dition to the assessment of that year, assess u
the lot or tract so omitted for such year or ye
that it shall have been so omitted, the just v
thereof, noting the year when such omis
occurred, and such assessment shall have
same force as it would have had, if made the
when the same was omitted. Should the ta
assessment upon any parcel of land be set a
or declared void by reason of any defect or
informality in assessing, levying, selling or
veying the same, but not affecting the jus
and equity of the tax itself, the common cou
shall cause the tax or assessment so set asid

declared void, to be relevied in such manner, as it shall direct by ordinance.

Board of equalization.

SECTION 57. The mayor, clerk, treasurer and assessor shall constitute the city board of equalization, and shall meet on the last Monday of June in each year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed, as far as the same are applicable, revising, correcting, and equalizing the assessment roll of the city. The mayor shall be president of the board, and the city clerk, clerk thereof. When the assessment roll shall have been completed, revised and corrected, it shall be filed with the clerk, and all changes of the assessment roll by the board of equalization, shall be recorded by the clerk; thereupon the common council, shall, by resolution levy, such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, specifying the purposes for which the same are levied. All taxes and assessments, general or special, levied under this act, shall be, and remain a lien upon the lands and tenements upon which they may be assessed, and on all personal property of any person or body politic, assessed for personal tax, from the delivery of warrant for collection thereof, until paid.

Duty of clerk in regard to tax roll.

SECTION 58. It shall be the duty of the city clerk, immediately on the receipt of the corrected assessment roll, and certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with the city and other local taxes, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent; and the clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer, on or before the second Monday in December in each year, and to each assessment roll so delivered, a warrant under the hand of the clerk, and the corporate seal of said city shall be annexed, substantially in the following form:

Form of warrant.

The state of Wisconsin, to the city treasurer o
the city of Edgerton, in the county of Rock.

You are hereby commanded to collect from eac
one of the persons and corporations named in th
annexed assessment roll, and of the owners of th
real estate described therein, the taxes set dow
in such roll, opposite to their respective name
and to the several parcels of land therein d
scribed; and in case any person or corporatio
upon whom such tax is imposed, shall refuse
neglect to pay the same, you are to levy and co
lect the same, by distress and sale of the goods an
chattels of the person or corporation so taxed, an
out of the moneys so to be collected, after deduc
ing your fees, you are first to pay to the trea
urer of the county of Rock, on or before th
last Monday in January next, the sum of ——
for state taxes; you are to retain and pay out a
city treasurer the sum of —— acccording to law
and the balance of said money you are require
to pay to said treasurer for county purposes; an
in case said tax and assessment shall not be pa
by the fourth Monday of February next, yo
are required to return the same, to the count
treasurer of the said county of Rock.

Given under my hand, and the corporate seal
the city of Edgerton, this —— day of ——, 18—

——— ———.
City Clerk.

Prima facie evidence.

The assessment roll and warrant thereto attache
shall be *prima facie* evidence in all courts, th
the lands and persons therein named were subje
to taxation, and that the assessment was just an
equal.

General laws shall govern.

SECTION 59. All the general laws of this stat
which are now, or may hereafter be in force rel
tive to the assessment and collection of taxe
shall be in force in said city, except as otherwi
herein specially provided, and the city treasur
shall proceed to collect the taxes, and all asses
ments of said city, in the same manner as is r
quired by law of town treasurers to collect taxe
except as herein provided.

Public notice shall be given.

SECTION 60. Upon the receipt of the tax ro
and warrant by the treasurer, he shall give publ
notice in a newspaper published in said cit
or by posting in three public places, th
such tax list, has been delivered to him for colle

tion, and that he will receive payment for taxes at his office, for the term of thirty days [next] ensuing the date of said notice. If the taxes are not paid in that time, he shall then proceed to collect the same, by distress and sale of the goods and chattels of the persons charged, giving at least six day's notice of the time and place of such sale, by posting up not less than three written or printed notices, in as many public places in said city.

Fees for collection of taxes.

SECTION 61. The treasurer shall collect as fees for the collection of taxes, one (1) per cent. on all taxes collected by, or paid to him, prior to the 10th day of January in each year, and five (5) per cent. upon all taxes or assessments paid to, or collected by him after the said tenth day of January; and in case of a distress or sale made by him of goods and chattels for the payment of any tax, he shall collect the same fees as are allowed constables on sale of goods upon execution.

State tax, when paid.

SECTION 62. The treasurer shall, on or before the last Monday in January, in each year, pay to the county treasurer, the state tax assessed upon the property in said city.

In case of city treasurer being unable to collect.

SECTION 63. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things, as are prescribed by the laws of this state, and any act that may be hereafter passed amendatory of said acts, in addition thereto.

Poor and paupers.

SECTION 64. The laws of the state for the relief and support of the poor in towns, shall apply to said city, and the common council shall appoint one or more of its number, to act as overseers of the poor of the city, who shall perform all the duties of overseers of the poor in towns.

Control of common schools.

SECTION 65. The common schools of the city of Edgerton, shall be under the control and supervision of the school district boards of each district, in the same manner as if this act had not passed, and the same relations shall be sustained between said city and such schools, as near as may be, as between towns and school districts therein, and the same reciprocal powers and duties.

Apportionment of school money.

SECTION 66. The town clerk of the town of Fulton, for the year 1883, shall apportion all school money or school fund that is to be appor-

tioned prior to the first day of September, 1883, the several districts, a part of which is embra in the city of Edgerton, in the same manner though this act had not passed.

Fines, penalties, etc., how recovered.

SECTION 67. The city of Edgerton, in its cor ate name, may sue for, and recover any and all fi penalties and forfeitures, under said city char and the acts amendatory thereof, or under the o nances, by-laws, or police or health regulati made in pursuance thereof, any general law of state to the contrary notwithstanding; and shall be lawful to complain generally in debt such penalty or forfeiture, stating the sectio this act, or the chapter or section of this act, the ordinance, by-law or regulation under wh the penalty or forfeiture is claimed, and to g the special matter in evidence under it. In prosecutions for any violation of any of the p visions of this act, or any ordinance, by-law regulation, the first process shall be a summo unless oath be made for a warrant, as in cas tort, before a justice of the peace, under the g eral statutes of the state for the time bei and when commenced by summons, such s mons may be substantially in the following fo

Form of summons.

COUNTY OF ROCK, } ss.
City of Edgerton. }

The state of Wisconsin, to the sheriff or any stable of said county, and the marshal of city of Edgerton:

You are hereby commanded to summon —— ———, if he shall be found in your cou to appear before the undersigned, a jus of the peace, in and for the city of Edgerton the ——— day of ———, 18—, at ——— o'cl in the ———noon, to answer to the city of Ed ton, to the damage of said city, two hundred lars or under.

Given under my hand, this ———day of —— 18—.

——— ———, Justice of the Peac

When returnable.

Such summons shall be made returnable and eral [served] in the same manner as is now, or h after may be prescribed by the laws of this state the commencement of actions before justices of peace by summons; and all the proceedings in action, except as hereinafter provided, shall

governed by the laws of this state, for the time being, relative to actions commenced by summons and triable before justices of the peace. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

CITY OF EDGERTON, against A. B. } In Justice Court,

————————C. D., Justice of the Peace.

The plaintiff complains against the defendant, for that, on the —— day of ——,18—, at the said city, the defendant did violate section ———, of (this act) or section ———, of an ordinance, or by-law, or regulation of said city, (describing it by its title), which said ——— is now in force. By reason of such violation, an action has accrued to the city of Edgerton, to recover of the defendant the sum of ——— dollars, wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, beside the cost of this action. In all cases where oath is made for a warrant, the complaint shall be made on oath, and substantially in the following form:

Form of complaint for warrant.

CITY OF EDGERTON, against A. B. } ss. In Justice Court, County of Rock.

——— ———, being duly sworn, complains on oath to C. D., a justice of the peace of the city of Edgerton, in said county, that A. B., on the —— day of ———, 18—, at said city, did violate section ———, of (this act), or section ——— of an ordinance, or by-law, or regulation of said city, (describing it by its title), as this complainant verily believes, and prays that said A. B. may be arrested, and held to answer to said city of Edgerton therefor.

Sworn and subscribed this —— day of ———, 18—.

Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF ROCK, City of Edgerton } ss.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Edgerton:

Whereas, ——— ——— has this day complained to me, in writing, on oath, that A. B., on the ——

day of ———, 18—, at said city, did violate secti
——— of (this act), or section ——— of chap
——— of (this act), or section ——— of an or
nance, by-law or regulation of said city, (describi
it by its title), therefore, you are hereby order
to arrest the body of the said A. B., and bring hi
before me forthwith, to answer to said city
Edgerton on the complaint aforesaid.

C. D., Justice of the Peace.

How justice shall proceed.

Upon the return of the warrant, the just
shall proceed summarily with the case, unless
be adjourned. The defendant, if required by t
court, shall recognize, with security to be approv
by the court, for his or their appearance in su
sum as the court may direct, or in default m
be put in charge of the officer who made the a
rest, or be committed to the lockup or jail of sa
city. The complaint, as aforesaid, shall be t
only complaint required, and the answer of "n
guilty," shall put in issue all the subject matt
embraced in the action.

Printed copy of ordinance shall be taken as evidence.

SECTION 68. A printed copy of an ordinan
by-law or regulation passed by the common cou
cil, and published in a newspaper, or in a pamp
let or book form, purporting to be published
authority of the common council to have be
so published, shall be *prima facie* evidence
its passage and publication, and shall be receiv
in evidence on the trial of all cases, cognizal
before any court in this state.

Witnesses and jurors shall attend without pre-payment of fees.

SECTION 69. Witnesses and jurors shall atte
before a justice of the peace in all city and crimi
suits, without payment of fees in advance, o
tender thereof, upon a process duly served, and
default thereof, their attendance may be compell
by attachment.

Findings of jury.

SECTION 70. In city prosecutions, the findi
of the court or jury shall be, "guilty," or, "n
guilty." If guilty, the court shall render juc
ment against the defendant for the fine, forfeitu
or penalty prescribed in this act, or in an or
nance, by-law or regulation, and for costs of su
but if not guilty, the costs of suit shall be tax
against the city. Upon rendition of judgme
against the defendant, and the non-payment the
of, the justice shall forthwith issue execution,
in other cases of tort in justices' court, in case t
action was commenced by summons, or a comm
ment in case it was commenced by warra

and shall in either case determine and enter upon his docket, the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. The form of the execution and commitment shall be the same, as near as may be, and conform to the provisions of this act, as are prescribed in similar or like cases in justices' court in this state.

Right of appeal.

SECTION 71. Any party feeling agrieved by the judgment in any action commenced under the provisions of this act, may appeal from such judgment to the municipal court of Rock county, in the time and manner provided by law for appeals from justices' courts.

Shall not work incompetency.

SECTION 72. No person shall be an incompetent witness, judge, justice or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

General bridge and other laws shall be in force.

SECTION 73. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto are hereby extended to, and shall include all the bridges now erected, or hereafter to be erected over any stream by, or in the city of Edgerton, and shall apply to any wilful and malicious damage which may be done to them; and the common council of said city may, from time to time, make such by-laws and ordinances as it may deem necessary, for the preservation of said bridges, and enforce the same by adequate penalties.

How to serve process against city.

SECTION 74. When any action or suit shall be commenced against said city, the service of process may be made by leaving a copy of the summons with the mayor and clerk of said city, and it shall be the duty of said clerk to take such proceedings as by ordinance or resolution directed, if any there be.

Property not to be levied upon for city judgments.

SECTION 75. No real or personal estate or property of any inhabitant or corporation of said city, shall be levied on, or sold to satisfy any contract, or debt or obligation of said city, or any judgment against said city of Edgerton.

Contract work.

SECTION 76. All contracts for work ordered by the common council shall, be let by contract or job, as the common council may direct and order.

SECTION 77. No penalty or judgment recovered

Remission of penalties.

in favor of the city, shall be remitted or discharge except by a two-thirds vote of the aldermen-ele

Purchase of real estate by city.

SECTION 78. The said city may have, purcha and hold, real and personal estate sufficient f the convenience of the inhabitants thereof, a may sell and convey the same, and the sam while owned or held by said city, shall be exem from taxation, except as provided by the gene laws of the state.

Deeds.

SECTION 79. When the city of Edgerton dee or leases any real estate or any interest there owned by said city, the party of the first part sh be the city of Edgerton, and the person or perso authorized to execute such deed or lease, need n be named in the body thereof.

Deeds, by whom signed.

SECTION 80. Deeds or leases executed by t city, shall be signed by the mayor and count signed by the clerk, and the clerk shall attach said deed or lease, a true copy of an ordinance, resolution, authorizing the same by the comm council, under the corporate seal of the city, whi said corporate seal shall also be attached to, a accompany the signature of the mayor, and su deed or lease and the certified copy of such dinance or resolution, when so attached to su deed or lease, shall be recorded with such de or lease, by the register of deeds, and such cop when so attached, and the record thereof, sh in all courts of this state be *prima facie* eviden of the authority of the mayor and clerk, to e ecute such deeds or leases.

Failure to hold election shall not abolish city.

SECTION 81. If any election by the people common council shall, for any cause, not be he at the time or in the manner prescribed, or if t council should fail to organize as provided, it sh not be considered reason for arresting, suspendi or abolishing said corporation, but such electi or organization may be had at any subseque day, by order of the mayor, and if any of t duties enjoined by this act, or the ordinances by-laws, or regulations of said city, to be done any officer at any specified time, and the sa are not then done and performed, the comm council may appoint another time at which sa act may be done and performed.

Not repealing.

SECTION 82. No general law of this state co travening the provisions of this act, shall considered as repealing, amending or modifyi

the same, unless such purposes be expressly set forth in such law as an amendment to the charter.

City regarded as a town for equalization purposes.

SECTION 83. The board of supervisors of the county of Rock, shall have the right, and shall regard the city of Edgerton as a town, in equalizing the assessment rolls of the several towns in said county, as provided by law, and shall receive the mayor of said city, or in his absence one of its aldermen, as a member of the county board. The said board of supervisors may levy tax or taxes, as now is, and may hereafter be provided by law in relation to towns, and shall cause the amount of taxes so levied, to be certified to the city clerk, in the manner provided by law in relation to towns or town clerks.

City clerk to transmit copy of assessment roll.

SECTION 84. Before the annual meeting of the board of supervisors of the county of Rock, and by the time required by law, for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll, or such statement as is required by law to be made by towns, to the clerk of the board of supervisors of said county, who shall lay the same before the board of supervisors at its annual meeting.

Sale of delinquent lands.

SECTION 85. The county treasurer shall sell all delinquent lands and lots returned from the city of Edgerton, at the same time and in the same manner, as other delinquent lands are sold in the county.

Duty of county treasurer to sell delinquent lands.

SECTION 86. It shall be the duty of the county treasurer of the county of Rock, and he is hereby required, where lots, tracts, pieces or parcels of land have been returned by the city treasurer as delinquent, for any general tax of this state, or for any tax authorized under this act, immediately after the sale of such delinquent lots, tracts, pieces or parcels of land by him, to pay said city treasurer the amount which may have been returned delinquent, belonging to the city of Edgerton, either in cash, or in certificates of sale of said lots, tracts, pieces or parcels of lands so returned as delinquent.

Use of county jail.

SECTION 87. The use of the jail of Rock county shall be granted to the city of Edgerton, until otherwise provided, for the confinement of offenders; and every such offender shall be delivered to the sheriff of said county, for whose safe keeping, custody and delivery said sheriff shall be responsible, as in other cases.

Connection between city and town severed.

SECTION 88. From and after the first Tuesday April, A. D. 1883, the connection between the tow of Fulton and that part of said town includ within the limits of the city of Edgerton, for town purposes, shall be dissolved; all that part the town of Fulton, not included within t limits of the city of Edgerton, shall constitute t town of Fulton, and the first town meeting sh be held at such place, as the chairman of the boa of supervisors of said town shall appoint.

Compensation for services.

SECTION 89. The city officers to be first elect under the provisions of this act, and their compe sation, not provided for by this act, shall recei as compensation for their services, such su as the common council shall determine, and t common council shall, in the month of Mar thereafter determine by resolution, the salary be paid to the different officers for the next e suing year, which compensation shall not be creased or diminished during the term of office said officers; and in case of a neglect to determi said compensation, the said officers, and each them, shall receive the same compensation their immediate predecessor.

Jury trials.

SECTION 90. In city prosecutions for the vio tion of any ordinance, by-law or regulation of s city, either party may call a jury, as prescribed law in justices' courts in this state, and the tr shall proceed in the same manner and be govern by the same rules, as in the trial of cases in ju tices' courts under the general laws of this sta

Street tax.

SECTION 91. The common council of said ci shall, on or before the second Monday of M 1883, assess a street tax on the property a persons in the city, liable to pay a highway street tax, according to the laws of this state a the provisions of this act. And such tax shall based upon the value of the property in said ci as appears upon the assessment roll of the tow of Fulton, for the year 1882. Such tax shall collected in money and expended by the str commissioner under the direction of the comm council of said city; and for the collection of s tax, the said common council shall have all t powers granted by law to town supervisors, the collection of highway taxes.

Plenary powers.

SECTION 92. For the purpose of carrying o the provisions of this act, the common council said city of Edgerton shall, in addition to t

powers herein provided, have and possess all the powers and authority granted by the laws of this state to the town board of supervisors for the government of towns.

SECTION 93. This act shall take effect and be in force from and after its passage and publication.

Approved March 20, 1883.

[No. 233. A.] [Published March 27, 1883.]

CHAPTER 98.

AN ACT amendatory of chapter 241, of the laws of 1879, entitled "an act to incorporate the city of Seymour and the several acts amendatory thereof."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 4, of sub-chapter 1, of said chapter 241, of the laws of 1879, is hereby amended by striking out the words "for each ward," in the 12th line of said section, where the same occur, following the word assessor, and inserting in the place thereof the words, "for said city," so that the clause in which said words, "for each ward" occur, shall read as follows: The elective officers of said city shall be a mayor, a clerk, a treasurer, a police justice for the city at large, three aldermen, one justice of the peace, and one constable for each ward, and one assessor for said city. Amendment.

SECTION 2. Section 22, of sub-chapter 6, of said chapter 241, of the laws of 1879, is hereby amended so as to read as follows: Section 22. The mayor and common council shall not be entitled to any compensation for their services. The city clerk and city marshal shall receive such compensation, not exceeding one hundred dollars ($100) each, for their services, as shall be determined each year by the common council at its first meeting. Amendment.

SECTION 3. Anything contained in said chapter 241, of the laws of 1879, or any act amendatory thereof, and relating thereto, conflicting with the foregoing amendments, are hereby repealed. Repealed.

SECTION 4. This act shall take effect and be in force, from and after its passage and publication.

Approved March 21, 1883.

[225, A.] [Published March 24, 18

CHAPTER 106.

AN ACT relating to the election of, and regulating the te of office of the aldermen in the city of Ripon.

The people of the state of Wisconsin, represe in senate and assembly, do enact as follows:

Relating to tenure of office in city of Ripon.

SECTION 1. At the next annual election for nicipal officers of the city of Ripon, one of aldermen for each ward of said city, shall elected for the term of one year; one, from e of said wards, for the term of two years; and from each of said wards, for the term of t years; who shall hold their offices, respectively the terms of one, two and three years.

SECTION 2. At each annual election for m cipal officers of the city of Ripon, after the tin the election of the aldermen, as provided for in preceding section of this act, there shall be ele one alderman, whose term of office shall be three years.

SECTION 3. Any vacancy that may happe the office of aldermen in said city, by death, re nation, or otherwise, shall be filled in the s manner as is now provided by law, for filling cancies in said office. And the person, so sele to fill such vacancy, shall hold said office during unexpired term of the alderman, whose vaca such person is so selected to fill.

SECTION 4. All laws and parts of laws in flict with the provisions of this act, are hereby pealed.

SECTION 5. This act shall take effect and b force from and after its passage and publicatio

Approved March 21, 1883.

[No. 8, A.] [Published March 24, 1883.]

CHAPTER 128.

AN ACT to amend the charter of the city of Monroe.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment. SECTION 1. Section 22, of chapter 238, of the laws of 1882, entitled an act to incorporate the city of Monroe, is hereby amended so as to read as follows: Section 22. The treasurer of said city shall perform such duties, and exercise such powers, as may be lawfully required of him by the ordinances of said city, or the laws of this state. All moneys raised, received, recovered or collected, by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which may belong to the said city, shall be paid into the city treasury, and shall not be drawn therefrom, except by an order issued by order of the common council, and signed by the mayor, and countersigned and attested by the clerk. He shall keep an accurate account of all moneys, or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the person from whom, the amount of the several sums was received, which book shall, at all reasonable times, be open to the inspection of any person. He shall, every three months, and so often as the common council require, render to such council a minute account of the receipts and expenditures of his office, and at the expiration of his office, he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for his services he shall be entitled to compensation as follows; on all moneys collected on or before the 10th day of January in each year, he shall receive one per cent., and on all moneys collected after the 10th of January in each year, five per cent.; and he shall have the same powers and be subject to the same liabilities, and be governed by the same laws as treasurers of towns.

Amendment. SECTION 2. Section 35, of chapter 238, of the laws of 1882, entitled an act to incorporate the city of Monroe, is hereby amended so as to read

as follows: Section 35. The aldermen sha
constitute the common council, and shall receiv
twenty-five (25) dollars each annually, in fu
compensation for their services as members
said common council, and the style of all ord
nances shall be, "The common council of the ci
of Monroe do ordain," etc. The common counc
shall meet at such time and place, as they, b
resolution, shall direct. A majority of the alde
men shall constitute a quorum.

Amendment. SECTION 3. Section 60, of chapter 238, of th
laws of 1882, entitled an act to incorporate th
city of Monroe, is hereby amended so as to rea
as follows: Section 60. One-half of the net pr
ceeds of all fines and penalties recovered and co
lected for the breach of any ordinance, by-law
regulation made in pursuance of section 56 an
57 of this chapter, shall be paid by the city trea
urer to the fire department.

Amendment. SECTION 4. Section 70, of chapter 238, of th
laws of 1882, entitled an act to incorporate th
city of Monroe, is hereby amended so as to rea
as follows: Section 70. In city prosecutions th
finding of the court or jury shall be eith
"guilty" or "not guilty." If guilty, the cou
shall render judgment thereon, against the defen
ant for the fine, penalty or forfeiture prescrib
in this act, or in the ordinance, by-law or regul
tion, for the violation of which the person or pe
sons shall have [been] adjudged guilty, and f
costs of suit, but if not guilty the costs of su
shall be taxed against the city. And in all cas
of conviction in actions brought, or prosecuted
recover a penalty, fine or forfeiture under any
the provisions of this act, or for the violation of an
ordinance of said city, the court shall enter jud
ment against the defendant for the fine and cos
of prosecution, and if the defendant shall negle
or refuse to pay such fine and costs, the cou
may, at any time within three years after the e
tering of said judgment, issue execution thereo
and such execution shall contain a provision th
for want of goods and chattels whereon to lev
to take the body of said defendant and him co
vey to the common jail of said county, and the
to be kept within or without said jail at ha
labor, for the benefit of said city under the dir
tion of the street commissioner of said city,
such period of time as the court shall direct.

to exceed sixty days, unless said fine and costs are sooner paid.

Such execution may be in the following form:

Form.

COUNTY OF GREEN, } ss.
City of Monroe, }

The state of Wisconsin, to the sheriff or any constable of said county, and to the keeper of common jail of said county, greeting:

Whereas, the said city of Monroe, on the ——— day of ———, 18—, recovered a judgment before the undersigned, one of the justices of peace, in and for said city, against ——— ———, for the sum of ——— dollars, and ——— cents, costs of suit, for the violation of section ———, of chapter ———, of this act, or section ———, of an ordinance, or by-law, or regulations of said city, (describing it by its title); you are hereby commanded to levy distress of the goods and chattles of said ——— ———, excepting such as the law exempts, and make sale thereof according to law, to the amount of said sum, together with your fees and twenty-five cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of said ——— ———, and him convey and deliver, to the keeper of the common jail in Green county, and the said keeper is hereby commanded to receive, keep in custody and him to keep within or without said jail at hard labor, for the benefit of said city, under the direction of the street commissioner of said city, the said ——— ———, for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this ——— day of ———, 18—. ——— ———, Justice of the Peace.

Amendment.

SECTION 5. Section 76, of chapter 238, of the laws of 1882, entitled an act to incorporate the city of Monroe, is hereby amended so as to read as follows: Section 76. All fines, penalties and forfeitures recovered and collected under, and by virtue of this act, or by virtue of any ordinance or by-law enacted by the common council of said city, and all moneys paid to the city on account of any or all licenses whatsoever, granted or issued by the common council of said city, including licenses for the sale of malt, spirituous or intoxi-

cating liquors, shall be paid into the city treasu
for the use and benefit of said city, except as p
vided in section 60 of this act.

Amendment. SECTION 6. Section 103, of chapter 238, of t
laws of 1882, entitled an act to incorporate t
city of Monroe, is hereby amended so as to re
as follows: Section 103. The common council
said city, shall have power to enact suitable or
nances, prohibiting the receiving or purchasing
old iron, copper, zinc, or any material commor
called junk, by any person from any minor, a
provide penalties therefor.

SECTION 7. This act shall take effect and be
force from and after its passage and publicati

Approved March 21, 1883.

[No. 161, S.] [Published March 23, 1883

CHAPTER 134.

AN ACT to incorporate the city of Tomah.

*The people of the state of Wisconsin, represen
in senate and assembly, do enact as follows:*

Corporate name. SECTION 1. All that district of country here
after described, from, and after the first Tuesd
in April, A. D., 1883, shall be a city by the na
of Tomah; and the people now inhabiting a
those who shall hereafter inhabit the district
country hereinafter described, shall be a muni
pal corporation by the name of the city of Toma
and shall have the general powers possessed
municipal corporations at common law, and
addition thereto, shall possess the powers here
specially granted, and the authorities there
shall have perpetual succession; shall be capal
of contracting and being contracted with; sui
and being sued; pleading and being implead
in all courts of law and equity; and shall have
common seal, and may change and alter t
same at pleasure.

Boundaries. SECTION 2. The south half of section thir
three (33), township eighteen (18) north, ran
one (1) west, all of section four (4) and the nor
half of section nine (9) in township seventeen (
north, range one (1) west, in Monroe county, sta

of Wisconsin, shall be included in, and constitute the limits and boundaries of the city of Tomah.

SECTION 3. The city of Tomah shall be divided into two wards; all that part of said city lying east of the center of Superior avenue, and the highways extending north and south, along or near the quarter line to the limits of said city, shall constitute and be known as the first ward. All that part of said city lying west of said line, shall constitute and be known as the second ward. Ward boundaries.

SECTION 4. The corporate authority of said city shall be vested in one principal officer styled the mayor; in one board of aldermen, consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act. Corporate powers.

SECTION 5. The elective officers of said city shall be a mayor, a treasurer, an assessor and a clerk, from the city at large, and a supervisor, a constable, two justices of the peace, and three aldermen from each ward. The mayor, treasurer, assessor and clerk shall be qualified voters and residents of said city; and the supervisors, constables, justices of the peace and aldermen, qualified voters of said city, and residents of the respective wards for which they are elected. All other officers necessary for the proper management of the affairs of said city, including those officers hereinafter mentioned, shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their offices for one year, and until their successors are elected and qualified; provided, however, that the common council shall have power to remove at pleasure, any appointive officer or agent under the city government. Justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. Elective officers. Appointed officers.

SECTION 6. Whenever a vacancy shall occur in the office of mayor or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council, within ten days after such vacancy shall occur. Any vacancy in any other office, shall be filled by the common council. The persons elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof, for the unexpired term, and with the same rights, and subject to Vacancies in office.

the same liabilities as the person whose office l shall be elected or appointed to fill.

Elections for all officers shall be by ballot.

SECTION 7. All elections by the people sha be by ballot, and a plurality of votes shall co stitute an election. When two or more cand dates for an elective office, shall receive an equ number of votes for the same office, the electio shall be determined by casting lots in the pre ence of the common council, and in such mann as they shall direct.

Qualified electors.

SECTION 8. All persons who are qualifie electors of the state of Wisconsin, and entitled vote at a general election, and who are actual re idents of the city of Tomah, shall be entitled vote for any officer to be elected in the ward which they reside, and be deemed qualified elec ors at city elections.

Annual election when held.

SECTION 9. The qualified voters of the city Tomah shall hold an election, on the first Tue day of April in each year, for the election of th officers named in section 5 of this act, whic election, shall be presided over by inspectors election, appointed by the council in the mann provided by the general laws of the state of Wi consin, now in force, governing general election who shall see the ballots safely deposited in th ballot box; shall decide all questions that may ari as to the legality of the votes presented; shall cou the ballots at the close of the polls, and shall ce tify and seal two returns; and the day followin the election, shall direct and return one of the sa returns to the city clerk of the city of Toma and the other to the county clerk of the county Monroe. The common council shall constitute board of canvassers, who shall, within five da after such election, meet at the common coun chamber, and canvass such returns; and aft the aforesaid returns have been canvassed by sa board, the mayor shall notify by a certificate, be served as a summons is served in justi court, the persons elected to the respective office The polls shall be kept open in the respective ward from nine o'clock in the forenoon until five in th afternoon. Said election shall be conducted in a cordance with this act, and with the existing law of the state of Wisconsin, and any frauds or viol tion of said laws, at such election, shall be punis able in the same manner, as any violation of th election laws in any part of the state.

SECTION 10. If either of the inspectors of elections, shall suspect that any person offering to vote does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspector, before receiving any such vote, shall require the voter offering his vote to take the following oath: "You do solemnly swear (or affirm as the case may be) that you are twenty-one years of age; that you are a citizen of the United States (or have declared your intention to become a citizen conformably to the laws of the United States on the subject of naturalization); that you have resided in the state of Wisconsin one year next preceding this election, and that you are a resident of this ward, and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." And if the person offering to vote, shall take such oath, his vote shall be received, and if such person shall take such oath falsely, he shall be deemed guilty of a wilful and corrupt perjury. If any person who is not a qualified voter shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any election, he shall be liable to prosecution, and on conviction thereof, shall forfeit and pay a sum not exceeding one hundred dollars ($100), nor less than twenty-five dollars ($25). It shall be the duty of the inspectors to keep a list of the names of all persons whose vote may be challenged as aforesaid, and shall swear in their votes, and if any inspector shall knowingly or corruptly receive the vote of any person not authorized to vote, or shall make out false returns of any election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to prosecution, and on conviction thereof, shall severally forfeit and pay a sum, not exceeding five hundred dollars ($500) nor less than one hundred dollars ($100). Illegal voting, challenging votes, etc.

SECTION 11. Any officer removing from the city, and any ward officer removing from the ward for which he was elected, and any officer who shall neglect or refuse to qualify, on or before the third Tuesday of April, next after his election, shall be deemed to have vacated his office, and the com- What is deemed a vacation in office.

mon council shall proceed to fill such vacancy a herein provided. All officers appointed or electe to fill any vacancy, shall enter upon the duties o such office, immediately after receiving notice o such election or appointment.

Terms of office. SECTION 12. The term of every officer electe under this act, except justices of the peace, sha commence the third Tuesday in April, of the yea for which, and in which, he was elected.

Special elections, how conducted. SECTION 13. Special elections to fill vacancies, o for any other purposes, shall be held and conducte in the same manner, and the returns thereof sha be made in the same form and manner as regula elections, and within such time as may be provide by the common council.

In case there is a failure to elect. SECTION 14. Should there be a failure to elec any officer herein required to be elected, on th day designated, the common council may order new election to be held, ten days' notice of th time and place being first given.

Shall take and subscribe an oath. SECTION 15. Every person elected or appointe to any office under the provisions of this act, ex cept justices of the peace, shall, before he enter upon the duties of his office, take and subscrib an oath of office, and file the same, duly certifie by the officer taking the same, with the city clerk The treasurer, clerk, marshal and such other offi cers as the common council may direct, sha severally, before they enter upon the duties o their respective offices, execute to the city o Tomah a bond, with two sureties, to be approve by the common council, or a majority thereof and said common council may, from time to time require new and additional bonds, and remov from office, any officer refusing or neglecting t give the same.

Duties of mayor. SECTION 16. The mayor, when present, sha preside over the meetings of the common counci and shall take care that the laws of the state, an the ordinances of the city, are duly observed an enforced, and that all executive officers of th city, discharge their respective duties. The mayo shall be the chief executive officer and head o the police of the city, and in case of riot an other disturbances, or apparent necessity, he ma appoint as many special or temporary policemen a he may deem necessary. The mayor shall, in a cases, have a seat in the common council, and h shall vote in the common council, only in case o

a tie vote; he shall give the common council such information, and recommend such measures, as he may deem proper and advantageous to the city. The mayor shall have the power to veto any ordinance passed by the common council, by notifying the common council of his objection thereto, at any time within seven days after the passage of such ordinance. In case of no session of the common council on any day after the passage of the same, and before the expiration of said seven days, such notification shall be made, by filing with the city clerk, a copy of his objections, and in case the council shall not, at the next ensuing meeting, re-enact such ordinance, by a vote of two-thirds of the aldermen elect, and cause the same to be published, the same shall be null and void. The common council shall, at its regular meeting, after its election, choose one of the board of aldermen, who shall be styled, president of the board of aldermen, and who, in the absence of the mayor, shall act as such mayor, and have and possess all the rights and privileges of such officer, and be subject to all the liabilities thereof, during the absence of such mayor, and who, when so acting, shall be denominated, acting mayor.

Duties of clerk.

SECTION 17. The city clerk shall perform all the duties required of him by law, and the ordinances of the city; he shall be keeper of the books, records and papers, and the corporate seal of the city, and the records and proceedings of the council, and shall possess the same powers that town clerks possess by law, to issue transcripts from the records of his office, and they shall, when certified by him, be received in all courts in like manner and effect; he shall perform the same duties in regard to common schools in said city, that are by the general laws imposed on town clerks; he shall draw and countersign all orders on the treasurer and keep a record of the same; he shall file in his office all chattel mortgages left with him to be filed, and the renewals thereof, receiving the same fees allowed to town clerks therefor, and the said mortgages and renewals shall be as valid as when filed in the office of town clerks, and the said clerk, shall possess authority to administer oaths, and he shall receive such compensation as the common council shall provide, by ordinance or resolution.

SECTION 18. The city treasurer shall perform all

Duties of treasurer.

duties required of him by law; collect all c
county and state taxes, and pay over all mon
in his hands according to law; he shall keep i
proper book an account of all moneys recei
and of all moneys paid out, and the same shal
all times, be open to the inspection of the voter
the city; he shall make reports quarterly and
der an itemized account to the common counci
all sums received, when, and by whom the sa
were paid, and also of all moneys by him paid
and all moneys raised, received, recovered or
lected by means of any tax, license, penalty,
feiture, fine or otherwise belonging to said
under the authority of this act, shall be paid
the treasury of the city, and shall not be dra
therefrom, except by an order issued by orde
the common council, and signed by the mayo
acting mayor, and countersigned or attested
the city clerk. The treasurer shall have the sa
powers, and be subject to the same laws and
bilities, and governed by the same laws as tr
urers of towns in this state; provided, that
shall receive no other fees except the compe
tion hereinafter provided.

Duties of marshal.

SECTION 19. The marshal shall perform s
duties, as shall be prescribed by the common co
cil, for the preservation of the public peace
collection of license moneys and fines; he s
possess all the powers and authority of consta
of towns, and be subject to the same liabili
It shall be his duty to execute all writs and
cesses to him directed, and when necessary
criminal cases, or for the violation of any o
nance of said city, or law of this state, may
sue and serve the same, in any part of the st
It shall be his duty to suppress all riots,
turbances and breaches of the peace, and to
move obstructions in the streets and alleys of
city, and to abate all nuisances in said city; to
prehend, with or without warrant, any perso
the act of committing any offense, against
ordinance of said city, or the laws of this st
and within a reasonable time bring such pe
before competent authority, for examinatio
trial; and for such service he shall receive s
fees as are allowed to constables for like serv
in this state, and such additional compensatio
the common council shall determine. He s
have power to appoint one or more depu

subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties. Such deputies shall also take and subscribe the proper oath of office, which shall be filed in the office of the city clerk, and when duly qualified as aforesaid, such deputies shall possess all the powers and authority, and be subject to the liabilities with the marshal.

Penalty for failure to deliver to successor.

SECTION 20. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects belonging to said city, pertaining to the office, he shall forfeit and pay to the use of the city, one hundred dollars ($100), besides all damages caused by his neglect or refusal to deliver over the same; and such successor may recover possession of such books, papers and effects in the manner prescribed by law in this state.

No mayor or alderman shall be party to any job or contract.

SECTION 21. No mayor or alderman shall be a party to, or interested in any job or contract with the city, and any contract or job in which they or either of them may be so interested, shall be null and void; and in case any money has been paid on any such contract, the common council may sue for, and recover back the amount so paid, from the parties to such contract, and the mayor or alderman interested in the same.

Officers of the peace.

SECTION 22. The mayor, or acting mayor, and each and every alderman, justice of the peace, marshal, deputy marshal, policeman and watchman, and constables of the said city, and the sheriff of Monroe county, and his deputies, shall be the officers of the peace, and may command the peace, and suppress in a summary manner all riotous or disorderly behavior within the limits of said city; and, for such purpose, may command the assistance of all bystanders, and, if any person, bystander, or private citizen shall refuse to aid in maintaining the peace, when so required, every such person so refusing, shall forfeit and pay a fine of not less than five (5) nor more than fifty dollars ($50).

Jurisdiction of justices of the peace.

SECTION 23. The justices of the peace elected under this act, and those justices of the peace now residing within the limits of said city of Tomah, during their unexpired term, shall have the same jurisdiction in all respects as justices of the peace

of towns, of Monroe county, and shall be sub
to the same liabilities and regulations as justi
of the peace under the general laws of the st
Term of office. of Wisconsin. The terms of office of justices
the peace, elected under this act shall commenc
the same time, and they shall qualify in like m
ner, as justices of the peace under the gene
laws of the state of Wisconsin, except that th
official bonds shall be approved by the comm
council of the city of Tomah; and all general la
prescribing the duties, or affecting the jurisdict
of justices of the peace, shall apply to justi
elected under this act, except as otherwise her
expressed; provided, that each justice shall resi
and hold his office in the ward for which he
elected.

Justices shall pay over all fines. SECTION 24. The justices shall account for, a
pay over to the treasurer of said city, all fines a
penalties collected by him, and belonging to s
city, within ten days after receiving the sa
and take his receipt for the same in the dock
Said justices shall be entitled to receive, in
cases had before them in which the city is int
ested, the same fees as are provided by law
justices of the peace of the several towns of t
state, in similar cases had before them.

Duties of assessor. SECTION 25. The city assessor shall assess
real and personal property of said city, at the ti
and in the manner provided for assessing in
towns of this state, and shall perform all ot
duties prescribed and directed by this act for h
to perform; and he shall receive a compensat
therefor of fifty dollars ($50) a year.

Street commissioner and his duties. SECTION 26. It shall be the duty of the str
commissioner, within ten days after his appoi
ment and qualification, to inspect all the stre
in the city, and all sidewalks, crosswalks, ditch
gutters, sewers, culverts, bridges, and all thi
appertaining to the streets, and report in writ
to the common council, recommending, in
opinion, what is necessary and ought to be d
thereto; and the city clerk shall lay said rep
before the common council for information, a
the common council may order said street co
missioner to put in repair any such streets or si
walk, if, in its opinion, it is a matter of nec
sity.

Further duties. SECTION 27. It shall be the duty of the str
commissioner to see that all ordinances of the ci

relating to the obstructions and cleaning, or closing of sidewalks, crosswalks, streets, bridges, alleys, public grounds, gutters, sewers, and waters in said city, are duly observed and kept, and shall have the general supervision over all grading, paving, graveling, planking, repairing, and cleaning streets, bridges, alleys, public grounds and gutters, and such other duties as the ordinances of said city may prescribe, and shall receive therefor, such compensation as the common council shall prescribe.

What constitutes the common council.

SECTION 28. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services, and the style of all ordinances shall be: "The common council of the city of Tomah do ordain," etc. A majority of the aldermen shall constitute a quorum, but a less number may adjourn from time to time.

Meetings of common council.

SECTION 29. The common council shall hold its first annual meeting in each year, on the second Tuesday after the regular city election, and thereafter, meetings at such times as they shall appoint; and the mayor may call special meetings, by notice to each of the members, to be served personally, or left at their several places of abode. The common council shall determine the rules of its own proceedings, and have power to compel the attendance of absent members, by fines or otherwise.

Powers of common council defined.

SECTION 30. The common council shall have the control and management of the finances, and of all property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade and commerce and health, as it shall deem expedient; declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule or by-law; and such rules, ordinances and by-laws are hereby declared to be, and have the force of laws; provided, they are not repugnant to the constitution and laws of the United States or of this state. For these purposes shall have authority, by ordinance, resolution and by-law:

Licenses for shows, saloons, etc.

1. To license and regulate the exhibition common showmen, and shows of any kind, or t exhibition of caravans, circuses, billiard tabl bagatelle tables, pigeon-hole tables and bowli saloons, and to provide for the abatement and moval of nuisances under the ordinances, or common law; and to grant licenses for selli spirituous, vinous or fermented liquors, and regulate and license groceries, taverns, victuali houses, and all persons vending, or dealing spirituous, vinous or fermented liquors, and to voke the same for a violation thereof; provid that the sum to be paid for any such license, sh not be less than the amount fixed by the gene laws of the state of Wisconsin, and that all censes shall be granted to expire on the first d of May, next following in each year.

Gambling.

2. To restrain and prohibit all descriptions gaming, and fraudulent devices and practices, a all playing of cards, dice and other games chance, for the purpose of gaming in said city, a to restrain any person from vending, or deali in spirituous, vinous or fermented liquors, unl duly licensed by the common council.

Riots, disturbances etc.

3. To prevent any riots, noise, disturbances disorderly assemblages, suppress and restrain d orderly houses or groceries, and houses of ill-fan and to authorize the destruction of all inst ments used for the purpose of gaming.

Slaughter houses, etc.

4. To direct the location and management slaughter houses and markets, and regulate t storage, safe keeping and conveying of gunpowd or other explosive or combustible materials.

Running of locomotives.

5. To regulate the running of engines, locon tives and cars through said city.

Regulate and license brewer ies.

6. To direct the location of, regulate and cense breweries, tanneries and packing houses.

Improving streets, etc.

7. To provide for the making, grading, i proving and repairing of the streets of the city Tomah, and to provide for the making, c structing and repairing gutters and sidewalks said city, and to prevent the incumbering of t streets, sidewalks, lanes and alleys with carriag sleighs, boxes, lumber, firewood, or other mat ials or substance whatever.

Racing and immoderate driving.

8. To prevent horse racing, immoderate dr ing or riding in the streets, and to regul the places of bathing and swimming in the wat within the limits of said city.

9. To restrain the running at large, of horses, cattle, swine, sheep, poultry and geese, and to authorize the restraining, impounding and sale of the same. Restrain cattle.

10. To prevent the running at large of dogs, and authorize the destruction of the same in a summary manner, when at large contrary to the ordinance of said city. Dogs.

11. To prevent persons from bringing, depositing or having within said city, or placing in the ponds adjacent to said city, any putrid carcass or other unwholesome or nauseous substance, and to require the removal of the same, by any person who shall have upon his premises, any such substance, putrid, or unsound beef, pork, hides or skins of any kind, or on default, to authorize the removal by some competent officer, at the expense of such person or persons. Unwholesome substances.

12. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the construction and maintenance of water works and sewers; to regulate and to license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city; and to erect lamps and to provide for lighting the streets, public grounds and public highways, with gas or otherwise. Pounds.

13. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of the bills of mortality, and to exempt burial grounds set apart for public use from taxation. Boards of health.

14. To establish the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Bread.

15. To prevent all persons riding or driving any horse, mule, cattle and other animals on the sidewalks in said city, or in any way doing damage to such sidewalks. Riding or driving on sidewalks.

16. To prevent shooting off fire-arms or crackers, and to prevent the exhibition of fireworks in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to the citizens thereof. Firearms and crackers.

17. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Restrain drunkenness.

Runners and solicitors.

18. To restrain and regulate runners and s
icitors for stages, cars, public houses and oth
establishments.

Police.

19. To make rules and ordinances for t
regulation and government of the police of t
city.

Public markets.

20. To establish public markets and ma
rules and regulations for the government of t
same, to appoint suitable officers for overseei
and regulating such markets, and to punish
restrain all persons for interrupting or interferi
with the due observance of such rules and regu
tions; to license and regulate butchers' stalls, sho
and stands for the sale of game, poultry, mea
fish and other provisions.

Hay and fuel.

21. To regulate the place and manner
weighing and selling hay, and measuring and se
ing fuel, lime and other gross commodities, a
to appoint suitable persons to superintend a
conduct the same.

Removal of snow and dirt.

22. To compel the owners of buildings,
grounds, or the occupants, where the same a
occupied, to remove snow, dirt or rubbi
from the sidewalks, street or alley oppos
thereto, and to compel such owner or occupant
remove from the lot owned or occupied by him,
such substances as the board of health shall dire
and in his default, to authorize the removal,
destruction of the objectionable substances, by so
officer of the city, at the expense of such owner
occupant.

Contagious diseases.

23. To regulate, prevent and control the la
ing of persons from cars and stages, or other
hicles, wherein are contagious and infectio
diseases, or disorders, and to make such dis
sition of such persons, as to preserve the health
said city.

Public auctions and vendues.

24. To regulate the time and manner of ho
ing public auctions and vendues, and to regula
the sale of goods, wares, and merchandise at pu
lic auction, and to grant licenses for the sale
goods, wares, merchandise and other property
public auction, and to prescribe and fix the amou
to be paid for such licenses; provided, it shall not
lawful to charge less than five dollars ($5), nor m
than five hundred dollars ($500), for any such lice
for one year; and provided also, that nothing in t
section shall prohibit, or affect in any mann

sales at auction, in cases specified in section 1585 of the revised statutes.

25. To appoint watchmen and to prescribe their duties. Watchmen.

26. To provide by ordinance for a standard of weights and measures. Weights and measures.

27. To protect trees and monuments in said city. Monuments.

28. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from any incumbrance, and to protect them from injury. Highways, etc.

29. To alter or change the name of any street in the city. Change of names.

30. To consolidate or change the boundaries of school districts in said city, under the same restrictions and with the same power, as is now conferred on town boards under the general laws of this state. School districts.

31. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, necessary for the good order and government of the city, which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city, by this act, or which may be vested in any officer of said city, by any ordinance thereof. Ordinances.

32. To provide for the prosecution, or defense of all actions or proceedings, in which the city is interested, and employ council therefor. Actions against city.

33. To purchase real estate, and provide for the erection of a city hall and engine house. Real estate and engine house.

34. To call special election for the purpose of raising a tax, where in its opinion the amount which they are authorized to raise by the provisions of this act, is insufficient to meet the requirements. Special election to raise tax.

35. To establish grades of any, or all streets in the city; to cause sidewalks, gutters and pavements to be constructed, and when a grade shall be established, it shall have such gradients as shall be sufficient to carry off all surface water, or other waters from whatever source coming on the street or streets; and when a grade is so established, they shall cause an accurate profile to be made thereof, and filed with the city clerk; and all such grades shall be worked in exact accordance with Grades of sidewalks, etc.

such profile, and the ordinance establishing same.

Fire department and its requirements.

36. To establish a fire department, and to vide for the due and proper support and regula of the same, and to appoint or direct the elec of such officers for such department, as it s see fit, and to define their powers and duties provide protection from fire by the purchas fire engines, and all necessary apparatus for extinguishing of fires, and by the erectio pumps and construction of water mains, re voirs or other water works; to erect en houses, to compel the inhabitants of the cit aid in the extinguishing of fires, and to pull d and raze such buildings in the vicinity of fire shall be directed by them, or any two of them may be present at the fire, for the purpose of venting its spreading to other buildings; to r late the storage of gunpowder and other dange materials; to require the construction of places for the deposit of ashes; to regulate construction and cleaning of chimneys; to pre bonfires and the use of fire-works and fire-a in the city, or any part thereof; to authorize wardens, at all reasonable times, to enter into, examine all dwellings, lots, yards, inclosures buildings of every description, in order to disc whether any of them are in a dangerous co tion, and to cause such as may be dangerous, t put in a safe condition; and generally to estab such necessary measures, for the prevention or tinguishing of fires as may be necessary and p er; and to declare by ordinance the punishmen violation of any such ordinance or regulation. fire company now and heretofore existing, in territory of said city, and heretofore known as fire department of the village of Tomah, and t constitution, laws and by-laws, regulations officers, shall continue in full force in said cit Tomah, and be supported by said city, until common council shall establish a fire departm under the provisions of this act, and the pr officers of the department now existing shal the months of May and October in each y make a report to the common council, showin estimate of what will be necessary and requ for the maintenance of said department; and a correct statement, showing for what pur

moneys have been expended, which may have been paid to said department by the city.

37. To regulate and control, or prohibit the erection of awnings and awning posts, and to provide for and control the erection and maintenance of hitching posts for teams. Awnings, hitching posts, etc.

38. To regulate and control the setting out of ornamental or shade trees in the streets of said city, and to require by ordinance, the owners of lots or grounds, to set out and plant shade trees, in the streets adjacent to their grounds, and to prescribe the kind and size of such shade trees, with power to levy special taxes upon the adjacent lots or grounds, to defray the expense thereof by the city, in case of default by the lot owner. Shade trees.

39. The common council, for the purpose of guarding against the calamity of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other material, that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of fire-proof materials, and to prohibit the repairing of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty (50) per cent. of the value thereof, and to prescribe the manner of ascertaining such damages. Fire limits.

SECTION 31. All laws, ordinances, regulations, and by-laws, shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor; and shall be published in a newspaper published in the city of Tomah before taking effect, and within fifteen days thereafter, they shall be recorded by the city clerk in books provided for the purpose; but before any such by-laws, ordinances or regulations shall be recorded, the publication thereof, respectively, within the same time, shall be proven by the affidavit of the foreman or publisher of the newspaper in which the same shall be published, and the said affidavit shall be recorded therewith, and at all times such record or a duly certified copy thereof, shall be deemed and taken, as sufficient evidence of the time and manner of the publication. Laws and ordinances, how passed.

SECTION 32. The power conferred upon said council, to provide for the abatement or removal of nuisances, shall not bar nor hinder suits, prose- Shall not bar or hinder suits.

cutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required thereof, houses or buildings of any kind, wherein more than one hundred pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed nuisances.

Council shall examine, audit and adjust accounts.

SECTION 33. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal and other officers or agents of the city, at such time as they may deem proper, also at the end of each year, and before the time for which the officers of said city are elected or appointed, shall have expired; and the common council shall require each and every such officer and agent, to exhibit his books, accounts and vouchers, for such examination and settlement; and if any such officers shall refuse to comply with the orders or requirements of the council, in the discharge of their duties, in pursuance of this section, or shall neglect or refuse to render their accounts, or present their books and vouchers to said council, to declare the office of such person vacant; and the common council shall order suits and proceedings at law, against any officer or person or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements; and the common council shall have power, upon an affirmative vote of two-thirds of its members, upon reasonable notice, to remove from office, any officer of the city, elected or appointed by the common council.

Funds shall be under control of council.

SECTION 34. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor, and clerk, duly authorized by a vote of the council, and all orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be payable out of any fund in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city.

SECTION 35. All forfeitures and penalties accruing to the city, for a violation of this act, or any of the ordinances, by-laws, rules, resolutions and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become part of the general fund. All orders shall be payable to the person, or order of the person, in whose favor they may be drawn. Penalties to be paid into city treasury.

SECTION 36. The common council of said city shall annually levy upon the taxable property of said city, to defray the current and lawful expenses of the city, a tax sufficient to defray the same; provided, said common council shall not levy a tax for general purposes, exceeding two per cent. upon the assessed valuation of said city, in any one year, unless authorized to raise a greater sum, by the majority of the electors of said city, at a general or special election. Annual tax levy.

SECTION 37. No account of any person shall be allowed by the common council, unless the same is properly verified by the oath of the owner thereof, or some person in his or her behalf, except it be for street work or hire, under the supervision of the street commissioner, duly certified by him. Accounts shall be verified.

SECTION 38. When the claim of any person against the said city shall be disallowed in whole or in part, by the common council, the determination of the common council disallowing the same, in whole or in part, shall be final and conclusive, and a perpetual bar to any action in any court founded on such a claim, unless an action to recover the same, shall be commenced within sixty days after such disallowance by the common council of said city. Determination of council shall be final.

SECTION 39. No action shall be maintained by any person against the city of Tomah, upon any claim or demand, until such person shall first have presented his claim or demand, to the common council for allowance. Claims must first be presented before action is commenced.

SECTION 40. The paupers of said city shall be cared for and supported, in the same manner as the poor from the several towns of Monroe county, are cared for. Poor and paupers.

SECTION 41. The common council shall annually, on Tuesday next preceding the annual election, make a report, showing in detail all the receipts and disbursements of said city for the past fiscal year, and cause the same to be published before the annual election. Date of annual report.

Power to lay out streets, etc.

SECTION 42. The common council shall have power to lay out streets and alleys and widen the same as follows: Whenever ten or more freeholders, residing in said city, shall, by petition, represent to the common council that it was necessary to take certain lands within the city for the public use for the purpose of laying out public streets or alleys or enlarging the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same be known to the petitioners, to be set forth in such petition, the common council shall thereupon cause notice of such application, to be given on the owners or occupants of such lands, if any there be, or if any portion of said lands shall not be in actual occupation of any person, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in a newspaper in said city four weeks successively, at least once each week.

What notice shall state.

SECTION 43. Such notice shall state, that upon a day therein named, not less than ten days from the service of such notice, or expiration of such publication, as the case may be, application will be made to a court commissioner of said county of Monroe, for the appointment of twelve jurors to view said premises and to determine whether it will be necessary and proper to take the same, for the purposes specified in said petition.

Proceedings to condemn land.

SECTION 44. Upon the presentation of such application, and upon proof of the publication, or service, of the notice hereinbefore required, the said court commissioner, shall appoint twelve resident freeholders, residents of said city, but not interested in the result of such application. The said court commissioner shall, thereupon, issue his precept, directed to said jurors, requiring them, within ten days, to view the premises to be specified in said precept, and to make returns, under their hands, to the common council, whether, in their judgment, it is necessary and proper to take said premises, for the purposes specified in such application; and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath, faithfully and impartially to discharge their duties as such jurors, in the premises, which oath may be administered by any

person authorized to administer oaths, which shall be filed in the office of the city clerk.

City marshal shall serve precept.

SECTION 45. The city marshal shall serve the said precept immediately, on the jurors therein named, by reading the same, to each one that can be found, and immediately after such service, he shall return the said precept to the court commissioner, who issued the same, together with his doings thereon; and if the jurors so appointed cannot be found, or shall be disqualified from acting, or shall refuse to act, the court commissioner shall appoint others in their places, and a memorandum of such substitution shall be indorsed on the precept.

Duties of jurors.

SECTION 46. The said jurors, at such times as shall be designated in said precept, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing; and either of the jurors shall be authorized to administer oaths to the witnesses. After viewing the premises in question, and hearing the testimony, if offered, the jurors shall make a report of their proceedings, which shall be signed by them, and which shall state, whether, in their judgment, it is necessary to take the premises in question, for public use; which said report, testimony and precept, shall be returned to the common council. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings, confirming said report, and directing the same jurors, within twenty days thereafter, to again view the premises to ascertain the amount of damages to be paid the owner, or owners, of the property proposed to be taken, and to assess and return, within the twenty days, such damages to the common council, who shall enter an order confirming the same.

In case there is a building.

SECTION 47. If there should be any building in whole or in part, upon said lands to be taken, the jurors shall first estimate the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; secondly, the value of such building to him, to remove.

Notice of determination shall be given.

SECTION 48. At least ten days' notice of such determination shall be given to the owner, or his agent, if known, and a resident of the city; if not

known, or a non-resident, notice to all persons interested, shall be given by publication in a newspaper of said city, for three successive weeks. Such notice shall specify the buildings and the award of the jurors, and it shall require the parties interested, to appear by a day named therein, and give notice of their election to the common council, either to accept the award of the jurors and allow such buildings to be taken with the land appropriated, or their intention to remove such building, and he shall have such time to remove such building, as the common council may allow.

If the owner shall refuse to take the building.

SECTION 49. If the owner shall refuse to take the building at the value assessed by the jurors to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such buildings at public auction, for cash, giving ten days notice of such sale; the proceeds shall be paid to the owner or deposited for his use. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgages, or if there be any estate in them less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded them by the jurors.

Award of jurors shall be signed.

SECTION 50. The award of said jurors shall be signed by them and returned, together with the testimony taken and the precept to the common council, within the time limited in such precept. Any person whose property is taken, or against whom any assessments are made, may, within ten days from the return of the jurors to the common council, appeal from such assessment of damages to the circuit court of Monroe county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond to said city, conditioned for the faithful prosecuting of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; said bond to have a good and sufficient surety to be approved by the clerk of said city, or county judge, or court commissioner.

Land shall not be taken until damages are paid.

SECTION 51. The lands required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owners thereof, or party entitled, shall be paid or tendered to the owner, or party entitled

thereto, or his agent, or if the owner or party entitled thereto, or his agent, shall refuse to accept such tender, or cannot be found, or is unknown, deposit it to his credit in some safe place of deposit, and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all laws and ordinances of the city, in the same manner as streets, alleys and public grounds, opened or laid out. The damages assessed shall be paid within one year, or tendered, or deposited, as herein required, and if not so paid, tendered or deposited within one year from the confirmation of such assessment, the proceedings shall be void.

All property subject to taxation.

SECTION 52. All property, real or personal, within the city, excepting such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, schools, and the payment of debts and liabilities, and the same shall be assessed in the manner hereinafter provided, and the assessor elected under this act shall have and possess the same powers that are, or may be conferred upon township assessors, except so far as they may be altered by this act; provided, that the common council may prescribe the form of assessment roll, and make such rules and regulations in relation to revising, altering or adding to such rolls, as it may, from time to time, deem advisable. When the assessment roll shall be completed, the assessor shall return said assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter and add to, take from and otherwise revise and correct the same. If it shall appear to the assessor, that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years, that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force as it would have had, if made the year when the same was omitted; should the tax or assessment upon any parcel of land be set aside, or declared void, by reason of any defect or informality in assess-

ing, levying, selling or conveying the same, but not affecting the justice and equity of the tax itself, the common council shall cause the tax or assessment so set aside, or declared void, to be relevied in such manner as it shall direct by ordinance.

Board of equalization.

SECTION 53. The common council shall constitute the city board of equalization and shall meet on the first Monday of July in each year, at nine o'clock in the forenoon, and shall proceed in all respects, as town boards are by law required to proceed, as far as the same are applicable, revising, correcting and equalizing the assessment roll of the city; the mayor shall be president of the board, and the city clerk, clerk thereof. When the assessment roll shall have been completed, revised and corrected, it shall be filed with the clerk, and all changes of the assessment roll by the board of equalization, shall be recorded by the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, specifying the purposes for which the same are levied. All taxes and assessments, general or special, levied under this act, shall be, and remain a lien upon the lands and tenements upon which they may be assessed and on all personal property of any person or corporation assessed for personal tax, from the delivery of the warrant, for collection thereof, until paid.

Duty of clerk in regard to tax roll.

SECTION 54. It shall be the duty of the city clerk, immediately on receipt of the corrected assessment roll and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with the city and other local taxes, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent where less than one-half, otherwise reckoning said fraction as a cent; and the clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer, on or before the second Monday in December in each year, and to each assessment roll so delivered, a warrant under the hand of the clerk and the corporate seal of

said city, shall be annexed substantially in the following form:

Form of warrant.

The state of Wisconsin, to the city treasurer of the city of Tomah, in the county of Monroe:

You are hereby commanded to collect from each one of the persons or corporations named in the annexed assessment roll and of the owners of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected, after deducting your fees, you are first to pay to the treasurer of the county of Monroe, on or before the last Monday in January next, the sum of ——— for state taxes, and the further sum of ——— for county taxes, and the balance of said money you are required to retain and pay out according to law; in case said tax and assessment shall not be paid by the fourth Monday of February next, you are required to return the same, to the county treasurer of the said county of Monroe.

Given under my hand and the corporate seal of the city of Tomah, this ——— day of ———, 18—.

———— ————,
City Clerk.

The assessment roll and warrant thereto attached, shall be *prima facie* evidence in all courts that the lands and persons therein named, were subject to taxation, and that the assessment was just and equal.

General laws of state shall govern.

SECTION 55. All the general laws of this state which are now, or may hereafter, be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided; and the city treasurer shall proceed to collect the taxes and all assessments of said city in the same manner, as is required by law of town treasurers to collect taxes, except as herein provided.

Notice to be published in official paper.

SECTION 56. Upon the receipt of the tax roll and warrant by the treasurer, he shall give public notice in a newspaper published in said city, that such tax list has been delivered to him for collec-

tion, and that he will receive payment for taxes at his office, for the term of thirty days ensuing the date of said notice. If the taxes are not paid in that time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written or printed notices, in as many public places in the city.

Treasurer's fees

SECTION 57. The treasurer shall collect as fees for the collection of taxes, one and one-half per cent. on all taxes collected by, or paid to him, prior to the second Monday of January in each year, and three per cent. upon all taxes or assessments paid to, or collected by him, after the second Monday of January, and in case of distress or sale made by him of goods and chattels for the payment of any tax, he shall collect the same fees as are allowed constables on sale of goods upon execution.

Payment of state tax.

SECTION 58. The treasurer shall, on or before the last Monday of January in each year, pay to the county treasurer, the state tax assessed upon the property of said city.

In case taxes cannot be collected by treasurer.

SECTION 59. In case the city treasurer is unable to collect any tax assessed upon any personal property and payable by any person named in the tax list, he shall proceed in all things as are prescribed by the laws of this state, and any act that may hereafter be passed amendatory of said acts in addition thereto.

Regarding the borrowing of money.

SECTION 60. The common council shall have no power or authority, and it is hereby prohibited from borrowing any money, or from authorizing any city officer to borrow any money for the use of the city, nor shall it have authority to issue any bonds, or to contract any debt for any purpose whatever, unless there is money in the treasury for the payment of the same, except for such work on the streets as shall be paid for by special tax or assessment on the property benefited thereby, and except as hereinafter expressly provided; and no order or other certificate of indebtedness, shall be drawn upon the city treasury, unless the same shall be authorized by a majority of all the members of the common council, and the vote authorizing the same shall be entered by ayes and noes upon the journal of the council, and no money

shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

School district board

SECTION 61. The common schools of the city of Tomah, shall be under the control and supervision of the school district board of each district, in the same manner as if this act had not passed, and the same relations shall be sustained between said city and such schools, as near as may be, as between towns and school districts therein, and the same reciprocal powers and duties, and until otherwise provided, by the common council of said city. The territory embraced within said city limits, and the inhabitants thereof, shall constitute one school district, to be known as school district number one, of the city of Tomah. The officers of school district number one, of the town of Tomah, shall be the officers of said school district number one, of the city of Tomah, during their unexpired term, and until their successors are elected and qualified, in accordance with the laws of the state of Wisconsin, regulating school districts; and all real estate and personal property belonging to school district number one, of the town of Tomah, is hereby vested in school district number one, of the city of Tomah.

School funds.

SECTION 62. The town treasurer of the town of Tomah, shall pay over to the school district treasurer, of school district number one, of the city of Tomah, all moneys, which, by present apportionments, or by those hereafter to be made, for the the year 1883, belong to school district number one, of the town of Tomah, taking his receipt therefor.

City to be considered as a town.

SECTION 63. For all future apportionments of county and state school fund, the city of Tomah shall be considered as a town, and apportionments made accordingly.

Printed copy to be evidence.

SECTION 64. A printed copy of an ordinance, by-law or regulation passed by the common council, and published in a newspaper, or in a pamphlet, or book form, purporting to be published by the authority of the common council, as certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Witnesses and jurors shall attend without prepayment of fees.

SECTION 65. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without payment of fees in advance,

or a tender thereof, upon a process duly served, and in default thereof, their attendance may be compelled by attachment.

Actions shall be brought in corporate name.

SECTION 66. All actions brought to recover any penalty or forfeiture under this act, or under the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city, and the summons or warrant, pleadings and proceedings therein, shall be the same as in civil actions. In such actions it shall be sufficient to allege in the complaint, that the defendant is indebted to the plaintiff in the amount of the penalty, or forfeiture claimed according to the provisions of this act, or the by-law, ordinance, rule or regulation which imposes it, specifying the section and chapter; and when such section imposes a forfeiture for several offenses or delinquencies, it shall specify the particular offense or delinquency for which the action was brought, with a demand for judgment for the amount of such penalty or forfeiture. In case the defendant is a non-resident of the state, an attachment may be issued in such action in like manner, as may be done in ordinary civil actions against non-residents; any such action may be brought for, and the judgment therein may include as many forfeitures, as the defendant may have incurred under the same section, prior to the commencement of such action. In all cases, when an action might be brought by the city of Tomah against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any resident of said city; provided, that before any person, other than the proper officers of said city, shall prosecute any such action, the person or persons so commencing shall enter into bonds, with sufficient surety to the opposite party, to be approved by the justice before whom such action shall be brought, conditioned that he, or they, will pay all costs that might be recovered against the city in such action. After filing such bond with the papers in the case, such action shall not be discontinued or defeated by the city; nor shall the city be liable for any costs on account of such action, but such costs, where the action shall fail, may be recovered against the party commencing the same upon the bond filed as aforesaid; provided, nothing herein contained shall be so con-

strued as to prevent any peace officer from arresting without process, any person in a state of intoxication or guilty of immoderate drinking, improper reveling, obscenity, or noisy, boisterous or disorderly conduct in the streets or public places, and taking such person or persons forthwith, before a justice of the peace of said city, or keeping them in confinement until such time as the court can reasonably hear and dispose of a complaint against such offender.

Respecting penalties.

SECTION 67. When a penalty or forfeiture is imposed by this act, or by any ordinance, by-law, rule or regulation made in pursuance thereof, not exceeding a specified sum, or when it is not less than one sum, or more than another, the action may be brought for the highest sum specified, and judgment may be rendered for such sum as the court or jury shall assess or determine to be proportionate to the offense.

Judgment shall include costs of action.

SECTION 68. In all cases when judgment is recovered in any such action, it shall also include the costs of the action, and it shall direct that if the same is not paid, the defendant shall be committed to the jail of the city of Tomah, or to the county jail of Monroe county, there to be imprisoned for a specified time, not exceeding three months, which period shall be fixed by the court in view of all the circumstances of the case, or until otherwise discharged pursuant to law. In such cases a commitment shall issue as in ordinary criminal actions, and such defendant shall not be entitled to the liberties of the jail. This section shall not prevent the issue of an execution to collect such judgment at any time within one year from its rendition.

Appeal.

SECTION 69. Any party feeling aggrieved by the judgment in any action commenced under the provisions of this act, may appeal to the circuit court of Monroe county, in the time and in the manner provided by law for appeals from justices' courts.

Shall not work incompetency.

SECTION 70. No person shall be an incompetent witness, judge, justice or juror by reason of his being an inhabitant of said city, in any proceeding or action, in which the city shall be a party in interest.

Preservation of bridges.

SECTION 71. The general laws for the preservation of bridges and the punishment provided by such laws for wilful and malicious injuries done

thereto, are hereby extended to, and shall include all bridges now erected or hereafter to be erected over any stream, by, or in the city of Tomah, and shall apply to any wilful or malicious damage which may be done to them; and the common council of said city may, from time to time, make such by-laws and ordinances as it may deem necessary for the preservation of said bridges, and enforce the same by adequate penalties.

Street ordinances.

SECTION 72. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving any street at the expense, in whole or in part, of the owners of the lots, or parcels of land, abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law shall not be passed or adopted sooner than two weeks after the introduction of such ordinance, resolution or by-law, nor until one week's notice of the introduction of such resolution shall have been published in a newspaper published in said city; provided, that when said ordinance is introduced on petition of all the lot owners subject to the special assessment by such ordinance, no notice by publication or otherwise, shall be necessary.

Sidewalks shall be constructed on established grade.

SECTION 73. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials and in such time, as the common council by resolution, ordinance or order, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, the common council may cause the same to be constructed at the expense of such owner or owners. The contract for the construction of any such sidewalk, shall be let to the lowest, reasonable, responsible bidder, and notice shall be given by publication for one week in a newspaper published in said city, of the time, place and manner of receiving such bids. The common council shall levy a special tax upon each lot or piece of ground, in front of which any sidewalk shall be constructed by contract, sufficient to pay the cost of

constructing the same; provided, no such contract shall be let until thirty days after notice shall have been given to such owner or owners, either personally, or by publication for one week in a newspaper published in said city.

May order repair of sidewalks.

SECTION 74. The common council shall have power, by a vote of two-thirds of all the members of the council, to order the building, construction, reconstruction or repair of sidewalks in the city of Tomah, in such manner as it may deem proper, and no petition, by the owners of the lots fronting or abutting on any such sidewalk, shall be necessary to authorize the common council to order such building, construction, reconstruction, or repair of any sidewalk in said city. The proceedings for ordering the repair of sidewalks, and the levying and collecting special taxes on the respective lots to pay for the same, shall be the same as herein provided in case of building a new sidewalk, except as otherwise provided in this section. Whenever a sidewalk shall be out of repair, and shall so remain for the space of twenty-four hours, which, in the opinion of the street commissioner, it will not cost to exceed the amount of five dollars ($5) in front of any one lot to repair, he shall be authorized, and it is hereby made his duty, to cause the same to be immediately repaired, and when the same is completed, he shall make out an itemized bill of the cost of such repairs, specifying the lot, block, or piece, or parcel of land, in front of which said work was done, verified by his oath, and shall deliver the same to the clerk, and the clerk shall, forthwith, present the same to the owner of such lot, piece, or parcel of land, if a resident of the city of Tomah, for payment, and if such owner shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the common council shall, thereupon, levy a special tax upon said lot, piece, or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece, or parcel of land, does not reside in the city of Tomah, the said street commissioner shall return said account to the common council, with his certificate, stating that fact, and the common council shall, therupon, levy a special

tax to pay the same, in the manner in this section provided.

Poll tax.

SECTION 75. Every male inhabitant of the city of Tomah, over twenty-one years of age and under fifty, except active members of the fire department of said city, and except those otherwise exempt by the law, shall pay into the city treasury annually the sum of one dollar ($1), as a poll tax. The assessor shall, at the time of making his annual assessment, make duplicate lists of the persons liable to pay such tax, and deliver one of said lists to the city clerk and one to the city treasurer, at the time he returns to the city clerk, his assessment roll of real and personal property of the city of Tomah. The said assessor shall designate the ward in which each person resides, and the city treasurer shall collect the same at the time of collecting the annual taxes, and all such taxes shall be paid to the city treasurer, on or before the first day of February, next after the delivery of the said lists to him, and the same proceedings may be had to collect such poll tax, as is provided for the other taxes to be collected by such treasurer; the treasurer shall credit each ward with the amount so collected from the inhabitants of such ward. The money so collected shall be kept as a distinct fund, and shall be expended by the street commissioner, under the direction of the aldermen of the ward in which such moneys were collected, in the improvement of the streets of such ward.

Costs of surveying streets to be charged to city.

SECTION 76. The cost and expense of surveying streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to, and payable by the city. The cost and expense of opening, grading, graveling, planking, paving or repairing streets and alleys, shall be chargeable to, and payable wholly, or in part, by the lots or land fronting on such street or alley, so that each lot or parcel of land, shall pay for work between the front of each lot or parcel of land, and the center of such street or alley, or such proportion thereof, as the council shall determine, or out of the general fund; sewers and gutters may be ordered by the common council, and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which said sewer or gutter shall be constructed; provided, that all such

improvements, or work of any kind upon the streets or sidewalks across streets, alleys and public grounds, shall be paid for by the city.

Service of process against city.

SECTION 77. When any action or suit shall be commenced against said city, the service of process may be made by leaving a copy of the summons with the mayor and clerk of said city, and it shall be the duty of said clerk to take such proceedings, as by ordinance or resolution directed, if any there be.

Property of citizens.

SECTION 78. No real or personal estate, or property of any inhabitant or corporation of said city, shall be levied on or sold to satisfy any contract, debt or obligation of said city, or any judgment against said city of Tomah.

Let by contract or job.

SECTION 79. All contracts for work ordered by the common council, shall be let by contract or job as the common council may direct and order.

Remission of penalties.

SECTION 80. No penalty or judgment recovered in favor of the city, shall be remitted or discharged, except by a two-thirds vote of all the aldermen.

City may hold and purchase real estate.

SECTION 81. The said city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same while owned or held by said city, shall be exempt from taxation.

Deeds.

SECTION 82. When the city of Tomah deeds or leases any real estate or any interest therein, owned by said city, the party of the first part shall be the city of Tomah, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Deeds and leases, how executed.

SECTION 83. Deeds or leases executed by the city, shall be signed by the mayor and countersigned by the clerk, and the clerk shall attach to said deed or lease, a true copy of an ordinance or resolution authorizing the same, by the common council, under the corporate seal of the city, which said corporate seal shall also be attached to, and accompany the signature of the mayor, and such deed or lease, and a certified copy of such ordinance or resolution, when so attached to such deed or lease, shall be recorded with such lease or deed, by the register of deeds, and such copy, when so attached, and the record thereof, shall, in all courts of this state be *prima facie* evidence of the authority of the mayor to execute such deeds or leases.

SECTION 84. If any election by the people, or

Failure to hold election at proper time, shall not abolish corporation.

common council, shall, for any cause, not be held at the time or in the manner prescribed, or if the council should fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization, may be had at any subsequent day, by order of the mayor, and if any of the duties enjoined by this act, or the ordinances, by-laws, or regulations of said city, to be done by any officer in a specified time, and the same are not then done and performed, the common council may appoint another time at which said act may be done and performed.

Does not repeal.

SECTION 85. No general law of this state contravening the provisions of this act, shall be considered as repealing, modifying or amending the same, unless such purpose be expressly set forth in such law, as an amendment of this charter.

City regarded as a town for equalizing purposes.

SECTION 86. The county board of the county of Monroe, shall regard the city of Tomah in the aggregate, without regard to its division into wards, as a town, in equalizing the assessment rolls of the several towns in said county as provided by law, and shall receive the supervisors elected from the wards of said city, as members of the county board; the said county board may levy taxes as is, or may hereafter be provided by law in relation to towns, and shall cause the amount of taxes so levied, to be certified to the city clerk in the manner provided by law, in relation to towns or town clerks.

Copy of assessment roll to be made by clerk.

SECTION 87. Before the annual meeting of the county board of the county of Monroe, and by the time required by law for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll, or such statement as is required by law to be made by towns, to the county clerk of said county, who shall lay the same before the county board at its annual meeting.

Sale of delinquent lands.

SECTION 88. The county treasurer of Monroe county, shall sell all delinquent lands and lots returned from the city of Tomah, as other delinquent lands are sold in the county, and shall pay over to the treasury of the city of Tomah, on demand, all money collected or received by him, belonging to such city, but he may retain in the county treasury all amounts due from said city to the county of Monroe.

First charter election.

SECTION 89. The first election of said city of Tomah, for the election of city and ward officers, shall be held on the first Tuesday in April, 1883, at the engine house in said city of Tomah. The election for the first ward of said city, shall be held in the engine room on the ground floor of said engine house; the election for the second ward, shall be held in the council chamber on the second floor of said engine house; at each ward polling place, the qualified electors of such ward shall choose *viva voce*, from the qualified electors of such ward present, three inspectors of election and two clerks of election, and the persons so chosen as inspectors and clerks, shall, before entering upon the duties of their offices, take and subscribe the oath required of inspectors and clerks of general elections, under the laws of the state of Wisconsin. Six days previous notice of said first election shall be given by the sheriff of the county of Monroe, stating the time and place of holding such election, and the officers to be elected in such city and in the respective wards, which notice shall be posted in three public places in each ward of said city. The provisions of this charter shall govern all questions not provided for in this section, arising at such first election.

Justices of the peace to be elected.

SECTION 90. Only one justice of the peace, for each ward in this city, shall be elected at such first election, and one justice of the peace shall be elected annually, thereafter, in each ward.

Connection between town and city shall cease.

SECTION 91. The city of Tomah shall be, and is hereby invested, as the lawful owner and successor of all real and personal property, and all the rights and privileges belonging to the corporation of the village of Tomah, together with all the funds, revenues, debts and demands, due and owing to the said village of Tomah, as a corporate body, which by, or under former acts, ordinances, grants, donations, gifts, or purchases, have been acquired, vested, or in any manner belonging to said corporation, and the same are hereby transferred to this corporate body, created by this act.

Licenses, by whom signed.

SECTION 92. Every license issued under the charter or ordinances of the city, shall be signed by the city clerk, and sealed with the corporate seal, but no such license shall be issued by said clerk, until the person applying for the same, shall have deposited with the clerk, the receipt of the city treasurer, for the amount required by the

ordinances, by-laws, or resolutions of said city, to be paid therefor, nor shall any license be issued for dealing in, selling, or vending spirituous, vinous, fermented or malt liquors, unless the same shall have been authorized by the common council, and the applicant shall have filed his receipt as aforesaid, together with a bond, as required by the laws of this state, which shall be approved by the common council.

Use of county jail.

SECTION 93. The use of the jail of Monroe county, until otherwise provided by the common council, shall be granted to said city for the confinement of offenders committed thereto, and when such offenders shall be committed to such jail, as provided in this act, the sheriff of Monroe county shall be responsible for the custody and safe keeping of such offender, as in cases under chapter 142, of the revised statutes, of the state of Wisconsin.

Property subject to taxation.

SECTION 94. Real estate exempted from taxation by the laws of this state, shall be subject to special taxes or assessments which become, or shall be chargeable against particular property as provided by this act.

Compensation of city officers.

SECTION 95. The city officers to be first elected or appointed, under the provisions of this act, whose compensation is not fixed or limited thereby, shall receive, as compensation for their services, such sum as the common council shall determine, and the common council shall, in the month of March thereafter, determine by resolution, the salary to be paid to the different officers for the next ensuing year, which compensation shall not be increased or diminished during the term of office of said officers, and in case of a neglect to determine said compensation, the said officers, and each of them, shall receive the same compensation as their immediate predecessor.

May call a jury.

SECTION 96. In city prosecutions for the violation of any ordinance, by-law or regulation of said city, either party may call a jury as prescribed for justices' courts in this state, and the trial shall proceed in the same manner, and be governed by the same rules, as in the trial of cases in justice court under the general laws of this state.

General law.

SECTION 97. This act is hereby declared to be a general law, and shall be favorably construed in all courts and places.

SECTION 98. This act shall take effect and be in force from and after its passage and publication.

Approved March 21, 1883.

[No. 425, A.] [Published April 4, 1883.]

CHAPTER 149.

AN ACT to amend chapter 231, of the laws of 1876, relating to the city of Eau Claire.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

City authorized to construct water works.

SECTION 1. Section 1, of chapter 231, of the laws of 1876, is hereby amended so as to read as follows: Section 1. The city of Eau Claire is hereby authorized and empowered to construct water-works, for the purpose of supplying said city and the inhabitants thereof, with water, and for that purpose is authorized to construct and maintain a dam, not to exceed eighteen feet in height above low water mark, across the Chippewa river, at such place, within the limits of said city, as the common council thereof may determine, and may open and construct drains, sewers, aqueducts, mains, and may construct or purchase water wheels, pumps and machinery for elevating and forcing water through mains and pipes, and all other works and appendages necessary or proper to the successful construction and operation of water works, to supply said city and the inhabitants thereof, with water, and to establish water rates and provide for the collection thereof. And the common council of said city, in addition to the powers herein specifically granted to them, shall have power to pass and adopt all such ordinances, resolutions and orders, as may be necessary or proper, to construct, maintain, operate and regulate such water works. And it shall be the duty of said city to complete said water works, prior to the first day of June, A. D. 1888, so that the same shall be capable for operation. And for the purpose of operating the same, to apply such portion of the water power created by said dam, as may be necessary.

SECTION 2. This act shall not be so construed

as to authorize the maintenance of said dam at a greater height than the same has heretofore been, and is now, maintained.

SECTION 3. This act shall take effect and be in force and effect from and after its passage.

Approved March 23, 1883.

[No. 72, A.] [Published March 26, 1883.]

CHAPTER 151.

AN ACT to revise, consolidate and amend the charter of the city of Wausau.

The people of the state of Wisconsin, represented in senate and assembly do enact as follows:

TITLE I.

CITY AND WARD BOUNDARIES.

Boundaries, and corporate name.

SECTION 1. All that district of country included in sections twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), thirty-five (35), and thirty-six (36), of township number twenty-nine (29) north, of range number seven (7) east, of the fourth principal meridian, and the north half (½) of section one (1), in township number twenty-eight (28) north, of range number seven (7) east, of the fourth principal meridian, in the county of Marathon, and state of Wisconsin, shall be known and designated as the city of Wausau.

SECTION 2. The said city of Wausau shall be, and is hereby divided into seven wards, as follows, to wit:

FIRST WARD.

Ward boundaries.

All that territory within said city, lying east of the center of the main channel of the Wisconsin river, and south of a line known as the center of Forest street, as far east as the west line of the right of way and depot grounds of the Chicago, Milwaukee and St. Paul Railroad Company; thence running southerly, along said west boundary line to the north line of the southwest quarter (¼) of the northeast quarter (¼) of section thirty-six (36), in township number twenty-nine (29) north, of range seven (7) east; thence running east on said north line, and continuing the same to the east boundary line of said city; excepting, however,

that portion of the island known as the Stewart and Plumer island, included within said territory, shall constitute and be designated as the first ward.

SECOND WARD.

All that territory within said city, lying east of the main channel of the Wisconsin river and north of the first ward, lying south of the center of Washington street and west of the west line of the Chicago, Milwaukee and St. Paul right of way and depot ground, and that portion of the northwest quarter (¼) of the northeast quarter (¼) of section thirty-six (36) in township number twenty-nine (29), north, of range seven (7), east, not included in the first ward, and the northeast quarter (¼) of the northeast quarter (¼) of section thirty-six (36), in township number twenty-nine (29), north, of range seven (7), east, and all the island known as the Stewart and Plumer island, shall constitute and be designated as the second ward.

THIRD WARD.

All that territory within said city, lying east of the center of the main channel of the Wisconsin river, and between the center of Washington street, on the south, and Scott street, on the north, and west of the right of way and depot ground of the Chicago, Milwaukee and St. Paul Railroad Company, and all that territory lying east of the west line of the right of way and depot ground of said railroad company, and north of the second ward, and south of the center of Franklin street, including the whole of the island known as the J. C. Clarke island, shall constitute and be designated as the third ward.

FOURTH WARD.

All that territory within said city, lying east of the main channel of the Wisconsin river, and west of the right of way and depot grounds of the Chicago, Milwaukee and St. Paul Railroad Company, and between the center of Scott street on the south, and Franklin street on the north, including the whole of the Clarke, Johnson & Co. island, shall constitute and be designated as the fourth ward.

FIFTH WARD.

All that territory within said city, lying east of the main channel of the Wisconsin river, and

north of the center of Franklin street, and the extension thereof, to the east line of said city, shall constitute and be designated as the fifth ward.

SIXTH WARD.

All that territory within said city, lying west of the main channel of the Wisconsin river, and north of a line commencing on the center of the main bridge across the Wisconsin river, thence running west along the center of Clinton street, to the center of Pine street, thence north to the center of Callen street, thence west to the center of Third street, thence north to the center of Elm street, thence west to the west line of the city, shall constitute and be designated as the sixth ward.

SEVENTH WARD.

All that territory within said city, lying west of the main channel of the Wisconsin river, and south of the south boundary line of the sixth ward, shall constitute and be designated as the seventh ward; provided, however, that the common council of said city of Wausau, shall have the power to change, alter and define the boundaries of the wards in said city, by ordinance, as it shall, from time to time, deem expedient.

TITLE II.

CORPORATE NAME AND POWERS.

Powers, and corporate name.

SECTION 3. The inhabitants residing in said city, shall be a municipal corporation, under the name and style of the city of Wausau, and shall be so known and designated, in all courts and places, and said city shall have and possess all the general powers and priveleges had and possessed by municipal corporations at common law, and in addition thereto, shall have and possess the powers and privileges hereinafter set forth and granted by this act, and said city may acquire, hold, possess and enjoy, convey or dispose of, personal and real property, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, answering and being answered unto, in any, or all courts of law or equity, and to do and perform all acts in its corporate capacity, necessary for its maintenance in its general or special powers and privileges, and

may have a common seal, and alter and change the same at pleasure.

SECTION 4. The corporate authority of said city, shall be vested in one chief officer, styled the mayor, one board of aldermen, consisting of one alderman and one supervisor from each ward, who, with the mayor, shall constitute the common council, and shall be so known and designated, together with such other officers, as are mentioned and created by this act. Corporate authority.

TITLE III.

CITY AND WARD OFFICERS AND THEIR ELECTION.

SECTION 5. The annual election for city and ward officers, shall be on the first Tuesday in April, in each year, at such place in each ward, as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon until sun-down, and ten days previous notice of such election, shall be given by the city clerk, stating the places of voting, and the city and ward officers to be elected, by posting such notices, in at least three public places in each ward, and by publication thereof, at least once, in a weekly newspaper, published at said city of Wausau. Regarding elections.

SECTION 6. The elective officers of said city, shall be a mayor, a city clerk, a treasurer, three assessors and three justices of the peace, to be elected by the city at large, and in each ward, one supervisor, who shall be a member of the common council of said city, and shall also represent his ward in the board of supervisors of Marathon county, and be a member thereof, and one alderman who shall be a member of the common council of said city, and in case of the absence or inability from any cause, of the supervisor, to attend any meeting of the county board, such alderman shall attend such meeting and act as a member of such county board, and one constable. Each of said officers shall be qualified voters of said city, and the mayor shall be a freeholder, and the supervisors and aldermen shall also be freeholders, as well as voters in the ward from which they shall be elected. All other officers necessary for the proper management of the affairs of said city, shall be appointed by the common council, Elective and appointive officers.

except the police force, which shall be appointed by the mayor and confirmed by the council.

Terms of office.

SECTION 7. All elective officers, except justices of the peace, shall hold their respective offices for one year, or until their successors are elected and qualified; provided, however, the common council shall have power, for any cause, to expel and remove from office, any of its own number, except the mayor, due notice having first been given to such person. The term of all the officers of the city, as mentioned, shall commence on the second Tuesday of April, next after said election.

Terms of office justises of the peace.

SECTION 8. Justices of the peace shall be elected to hold their offices for two years. The term of office of justices of the peace, shall commence on the first Monday of May, next ensuing their election, except when a justice is elected to fill a vacancy, then the term of office shall commence on the second Tuesday following the election.

Who are qualified electors.

SECTION 9. The inspectors of all elections in said city, shall be chosen in the same manner, and be the same, as the general laws of the state require; and every inhabitant, qualified by law to vote at a general election, shall be entitled to vote in the ward in which he resides, and shall have resided for ten days previous to said election, for all officers to be elected by virtue of this act. Any person may be challenged in the same manner, and the same proceedings held thereon, as are, or shall be prescribed by law, in relation to a general election, so far as the same shall be applicable to a charter election,

In case of vacancy.

SECTION 10. Whenever a vacancy shall occur in any elective office, such vacancy may be filled by a special election, which shall be called by the common council; all other vacancies may be filled by appointment of the common council, and the common council shall have power to remove, by a two-thirds vote, any appointees of its own.

Elections to be by ballot.

SECTION 11. All elections by the people shall be by ballot, and a plurality of votes cast, shall constitute an election. When two or more candidates for the same office, shall receive an equal number of votes for such office, the election shall be determined by the casting of lots, by the common council, at its next meeting, after such election, in such manner as it shall direct.

Canvass of votes.

SECTION 12. When an election shall be closed, and the number of votes for each candidate, or

person voted for, shall be counted and ascertained, the said inspector shall make a return thereof, stating therein the number of votes for each person, for each and every office, and shall deliver, or cause to be delivered, such return to the city clerk, within three days after any such election. The common council shall, on the fourth day after such election, meet and canvass said returns, and declare the result, as it appears from the same, and the city clerk shall forthwith give notice to each person elected, of his respective election.

Special elections.

SECTION 13. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner, and the returns thereof, shall be made in the same form and manner, as general or annual elections, and within such time as may be prescribed by ordinance.

What constitutes a vacancy.

SECTION 14. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days, after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

TITLE IV.

OFFICERS, THEIR POWERS AND DUTIES.

Duties required of officers to qualify.

SECTION 15. Every person elected or appointed under the provisions of this act, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same, duly certified by the officers taking the same, together with their official bond, with the clerk of the city; and the treasurer, clerk, chief of police, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Wausau a bond, with at least two sureties, who shall swear that they are worth, in the aggregate the penalty specified in said bond, over and above all debts, exemptions or liabilities, and said bonds shall contain such penal sum and such conditions, as the common council may deem proper; and it may, from time to time, require new additional bonds, and remove from office any officer refusing or neglecting to give the same.

Duties of mayor.

SECTION 16. The mayor shall, when present, preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city, are duly observed and enforced, and that all other officers of the city discharge their respective duties. He shall, from time to time, give the common council such information, and recommend such measures, as he may deem advantageous to the city. The mayor shall be the chief executive officer, and the head of the police of the city. He shall appoint a chief of police and other policemen, which appointments shall be approved by the common council, before they shall enter upon the duties of their office; and the compensation of said chief of police and policemen, as well as of such temporary policemen and watchmen as may be appointed, shall be fixed by the common council; and when, in his judgment, occasion requires, he may appoint as many special or temporary policemen as he may deem necessary; but their appointment shall not continue beyond the next meeting of the common council thereafter, unless approved by said council. The mayor shall, at the first regular meeting of the common council in each year, make out and announce such standing committees of the year, and on such subjects as may be, by ordinance or resolution of the common council, required.

Election of president.

SECTION 17. At the first meeting of the common council in each year, after the charter election, it shall proceed to elect, and elect by ballot, one of its members president; and in the absence of the mayor, the president shall preside over the meetings of the common council, and during the absence of the mayor from the city, or his inability, for any reason, or in case of vacancy of the office, to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of the mayor. In case the mayor and president shall be absent at any meeing of the common council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge all the duties of mayor. The president or temporary presiding officer, while performing the duties of mayor, shall be styled acting mayor, and all acts performed by either, in such case or cases, shall have the same force and validity as if performed by the mayor.

SECTION 18. The city clerk shall keep his office at some convenient place within said city, and shall be in attendance thereat, at such reasonable time as the common council shall prescribe. He shall attend the regular and special meetings of the common council, and keep a record of its proceedings, and shall have the custody of the corporate seal, and shall keep all papers that, by any provision of law, or by the direction of the common council, are required to be kept in his office, or filed by him; and copies, printed or written, or partly printed and partly written, of all papers filed in his office, and transcripts from the records of the proceedings of the common council, and copies of the ordinances, by-laws, resolutions and regulations of the city, shall be evidence in all courts, and in all places, in like manner as if the originals were produced, and proved. He shall see that all ordinances, orders, resolutions, notices, and other matters, requiring publication, are promptly and correctly published, in such paper as the council may have directed, and that the proof thereof be made and recorded. He shall record all papers and proceedings, required by any of the provisions of this act, to be recorded in his office. He shall attest all orders drawn upon the treasury, and keep a full and accurate account of the same, and of the fund to which chargeable. He shall have power to administer oaths and affirmations, and take the acknowledgments of deeds, or other instruments, and certify the same. He shall serve, or cause to be served, all notices required to be given under this act, except when otherwise especially provided; he shall countersign all licenses granted by the common council, and enter, in an appropriate book, the name of every person to whom a license shall be granted, the date thereof, the time during which it shall be in force, and the sum paid therefor; he shall perform such other duties, not here enumerated, as may be required of him, in his said capacity, by the common council, or by the general laws of the state of Wisconsin, in relation to the assessment and collection of taxes in said city. In case of sickness, absence, or disability of said city clerk to act, the common council may supply the vacancy by an appointment, *pro tempore;* in which case, such appointee shall have all the powers and discharge all the duties of city clerk. Clerk.

Jurisdiction of justices of peace.

SECTION 19. The justices of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justice of the peace, and shall qualify in the same manner as provided by the general laws of this state, except that their official bonds shall be approved by the mayor, and may hold their offices and courts in any part of the city. All constables elected by virtue of this act, shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Treasurer.

SECTION 20. The treasurer of said city shall perform such duties and exercise such powers, as may be lawfully required of him by the ordinances of said city, or the laws of this state. All moneys raised, received, recovered or collected by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which may belong to the said city, shall be paid into the city treasury, and shall not be drawn therefrom except by an order issued by order of the common council, and signed by the mayor, and countersigned or attested by the clerk, except school moneys, which shall be drawn as herein otherwise provided. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, and shall keep each fund separate in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the person from whom the amount of the several sums was received, and which book shall, at all reasonable times, be open to the inspection of any person. He shall, every three months, and as often as the common council require, render to such council a minute account of the receipts and expenditures of his office, and at the expiration of his office, he shall hand over to his successor, all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for his services receive the compensation as hereinafter provided, and he shall have the same powers and be subject to the same liabilities, and be governed by the same laws as treasurer of towns; provided, that he shall receive no other fees except the compensation hereinafter provided.

Chief of police.

SECTION 21. The chief of police shall attend all meetings of the common council, and shall per-

form such duties as shall be prescribed by the council, for the preservation of the public peace and collection of license moneys and fines, and shall receive such compensation as the council may determine. He shall possess all the powers of constables of towns, and be subject to the same liabilities. He shall execute and return all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city, or law of the state, may pursue and serve the same in any part of the state. He shall suppress all riots, disturbances and breaches of the peace, and abate all nuisances therein. He shall apprehend all persons in the act of committing any offense against any ordinance of said city, or laws of this state, and within reasonable time bring such persons before competent authority for examination. He shall, under the mayor of the city, have the supervision and control of all policemen, appointed by the mayor and common council, and he shall, from time to time, and whenever requested by the common council, make a report to the council, as to the efficiency of the police force of the city of Wausau.

City attorney.

SECTION 22. The city attorney shall conduct all the law business of the corporation. He shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the council, or any of its committees. He shall keep a docket of all cases to which the city may be a party, in any court of record, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall, at all times, be open to the inspection of the mayor, or any committee of the common council. It shall also be the duty of the city attorney to draft all general ordinances, all bonds, contracts, leases, conveyances, and other instruments of writing, that may be required by the business of the city, and to perform such other duties as may be prescribed by the charter and ordinances. He shall receive an annual salary, to be fixed by the council.

Street superintendant.

SECTION 23. The common council shall also, at its first meeting for organization, each year, after the annual election, choose, by ballot, a street superintendent. The street superintendent shall see that all ordinances of the city, relating to the

obstruction and cleaning of sidewalks, streets, bridges, alleys, public grounds, reservoirs, gutters, sewers, and waters of the rivers in said city, are duly observed and kept, and to control the persons employed therein. He shall have the general supervision over all work let by contract, for the making, grading, paving, graveling, planking, repairing and cleaning of streets, bridges, alleys, public grounds, reservoirs and gutters, unless the common council shall otherwise direct. He shall receive such compensation as the council may determine. The common council may, in its discretion, choose a street superintendent for each ward in said city, and when so chosen, such superintendents shall perform the duties, and have the power herein before conferred, in their respective wards.

City surveyor.

SECTION 24. The common council may also, at its first meeting for organization, after the annual election, or as soon thereafter as convenient, elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties, and fix the fees and compensation for any service performed by him. All surveys, profiles, plans, or estimates, made by him, for the city, or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested.

City engineer.

SECTION 25. The common council shall, at its first regular meeting in each year, appoint a suitable person, as chief engineer of the fire department, who shall have charge and supervision, under the mayor, of all fire apparatus owned by the city, and shall have control and supervision of all employes of the city, connected with the fire department, and shall have such further authority and perform such duties as the common council may by resolution prescribe. He shall receive such compensation for his services as the common council may determine.

Sealer of weights and measures.

SECTION 26. The common council shall, at its first regular meeting in each year, elect a sealer of weights and measures for said city, who shall be governed by the general laws of the state appertaining to sealer of weights and measures, and as the common council shall, from time to time, order and determine, and shall receive such com-

pensation for his services as the common council shall prescribe.

Assessment districts.

SECTION 27. The city of Wausau is hereby divided into three assessment districts, as follows: The first, second and third wards shall constitute the first assessment district; the fourth and fifth wards shall constitute the second assessment district, and the sixth and seventh wards shall constitute the third assessment district. And for each of said districts the electors of the city of Wausau, at large, shall elect one assessor, who shall be a resident of the district for which he is elected. The said assessors shall assess the real and personal property in their respective districts, in the city of Wausau, at the time and in the manner provided for by law; and they shall receive such compensation for their services as provided by law for town assessors, unless other compensation shall be determined upon by the common council. The said assessors shall be members of the board of equalization for the city of Wausau and perform such duties as hereinafter prescribed.

Council may require other duties of officers.

SECTION 28. The common council shall have power, from time to time, to require other and further duties to be performed by any officer, whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by it. Such compensation shall be fixed, by resolution, at the time the office is created, or at the first regular meeting in the month of March, and shall not be increased or diminished during the term such officer shall remain in office, or for which he is elected or appointed.

Official paper.

SECTION 29. The common council, at its first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers printed in said city, in which shall be published all ordinances and other proceedings and matters required by this act, or by the by-laws or ordinances of the common council to be published in a public newspaper.

Certified copies.

SECTION 30. The city printer or printers, immediately after the publication of any notice, or ordinance, or resolution, or by-law, which by this act is required to be published, shall file with the

clerk of the city, a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, by-law or resolution, and the clerk shall file the same in his office.

Penalty for non-delivery.

SECTION 31. If any person, having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

City officer shall not be party to any job or contract.

SECTION 32. No city officer shall be a party to, or interested in, any job or contract with the city, or any of its wards, and any contract in which any city officer may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract and the city officer interested in the same.

Who are officers of the peace.

SECTION 33. The mayor or acting mayor, sheriff of Marathon county, and each and every alderman, supervisor, municipal judge, justice of the peace, chief of police, chief of the fire department, under sheriff and deputy sheriff of Marathon county, constable, policemen and watchmen, shall be officers of the peace, and may command the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders, and, if need be, of all citizens. And if any person, bystander or private citizen, shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars ($50); and in case when the civil power may be required to suppress riots or disorderly behavior, the supervisor or senior officer present, in the order mentioned in this section, shall direct the proceedings.

TITLE V.

POWERS AND DUTIES OF THE COMMON COUNCIL.

Style of ordinances.

SECTION 34. The mayor, aldermen and supervisors shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Wausau do ordain, etc." The common council shall meet at such time and place as it, by resolution, shall direct. A majority of the aldermen and supervisors shall constitute a quorum.

Meetings of council.

SECTION 35. The common council shall hold its first annual meeting in each year, on the third Tuesday of April, and thereafter stated meetings at such times as it shall appoint, and the mayor may call special meetings, by notice to each of the members, to be served personally or left at their several places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have the power to compel the attendance of absent members. No member of the common council shall receive any compensation for his services as such.

Management and control of finances, and powers of council defined.

SECTION 36. The common council shall have the management and control of the finances, except school moneys, and of all other public property in the city; and shall likewise, in addition to the power herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, resolutions and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce the same as it shall deem expedient; declaring and imposing penalties and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes shall have authority by ordinance, resolution or by-laws:

1st. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of

License and regulate amusements, liquor selling.

any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances under the ordinances of said city, the laws of the state, or at common law, and may grant licenses for, and regulate groceries, taverns, victualling houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in or vending spirituous, vinous, or fermented liquors shall not be less than seventy-five dollars ($75), nor more than two hundred dollars ($200) per annum, and that all such licenses hereafter granted, shall run from the first day of May in each year, to the first day of May following; provided, however, that when any such license may be applied for after that date, the same may be granted, to expire on the first day of May of each year, on the applicant paying *pro rata* therefor; but no license shall be granted for a longer term or period than one year.

Gaming, fraudulent devices.

2d. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, fermented or vinous liquors, unless duly licensed by the common council, and to license, regulate and suppress hawkers and peddlers.

Riots, etc.

3d. To prevent any riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. No person shall be incapacitated or excused from testifying, touching any offense committed against any of the provisions of this act, or any ordinance of the city of Wausau, by reason of him or her being implicated in any such offense, but the testimony of such witness shall, in no case, be used against such witness.

Nauseous places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to

time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses, and gunpowder.

5th. To direct the location and management of slaughter houses and markets, and to establish rates for, and license vendors of gunpowder, and regulate the storage, safe keeping and conveying of gunpowder and other combustible materials.

Encumbering streets.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood or any other materials or substance whatever.

Horse racing, bathing, etc.

7th. To prevent horse racing, immoderate riding or driving in the streets, and to regulate the places of bathing and swimming within the limits of said city.

Restrain cattle.

8th. To restrain the running at large of cattle, mules, horses, swine, sheep, poultry and geese, and to authorize the restraining, impounding and the sale of the same, for the penalty incurred and the costs of proceedings.

Dogs.

9th. To prevent and regulate the running at large, and license the keeping of dogs within said city.

Unwholesome substances.

10th. To prevent any person from bringing, depositing, or having within said city, any putrid carcasses, or other unwholesome substances, and to require the removal of the same by any person, who shall have upon his premises, any such substance, putrid or unsound beef, pork, fish, hides, skins or substances of any kind, and in default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Public pounds, water works and street lamps.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants; to erect lamps, and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen, and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds, and public buildings, with gas, electric light or otherwise.

Boards of health, bills of mortality, burial grounds.

12th. To establish and regulate boards of health, provide hospitals, pest houses and cemetery grounds, regulate the burial of the dead, and

the return of the bills of mortality, and to exempt burial grounds, set apart for public uses, from taxation.

Size of bread. 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Driving on sidewalk. 14th. To prevent all persons riding or driving any ox, mule, cattle or other animal on the sidewalks in said city, or in anyway doing damage to said sidewalks.

Fire arms, fire crackers. 15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks, in any situation which may be considered by the council dangerous to the city, or any property therein, or annoying to any citizens thereof.

Drunkenness. 16th. To restrain drunkenness, or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners, solicitors, etc. 17th. To restrain and regulate runners and solicitors for stages, public houses or other establishments, and to establish and regulate the police of said city.

Public markets. 18th. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Provisions. 19th. To license and regulate butchers' stalls, shops, and stands for the sale of game, poultry, butchers' meats, butter, fish, and other provisions.

Weighing and selling hay, etc. 20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel, and lime, and to appoint suitable persons to superintend and conduct the same.

Removal of snow and dirt. 21st. To compel the owners and occupants of buildings and grounds, to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default, to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owner or occupant.

Contagious or infectious diseases. 22d. To regulate, control and prevent the landing of persons from railroad cars or stages, wherein are contagious or infectious diseases or

disorders, and to make such disposition of such persons, as to preserve the health of said city.

23d. To regulate the time, place and manner of holding public auctions or vendues, and to impose and collect license fees, on all auction sales within said city. Auctioneers.

24th. To appoint watchmen and prescribe their duties. Watchmen.

25th. To provide by ordinance for a standard of weights and measures, and for the punishment of the use of false weights and measures. False weights.

26th. To protect trees and monuments in the said city. Monuments.

27th. To prescribe and regulate the construction of sewers within said city. Sewers.

28th. To lay out, make, open, keep in repair, alter or discontinue, any highways, streets, lanes and alleys, and to keep them free from encumbrances, and to protect them from injury. Improvement of streets.

29th. To alter or change the name of any street in the city. Change names of streets.

30th. To regulate, license, restrain and prohibit the ringing of bells and the crying of goods, wares, and merchandise, or other commodities, in the streets or vacant lots of said city. Ringing of bells.

31st. To regulate the running of locomotives, engines and cars through the city, and prohibit them from being propelled through or in the same, at a greater speed than six miles per hour. Running of locomotives.

32d. To regulate and control the erection of awnings and awning posts, and to provide for and compel the erection and maintenance of safe and convenient hitching posts, and places for fastening teams, at such point or points as the council may deem necessary. Awnings and posts.

33d. To provide for the removal or abatement of any nuisance caused by stagnant water standing upon any lot, or land, within said city, when said stagnant water shall be deemed, by the said council, to be injurious to the health of any portion of said city; and on complaint being made to said council, to that effect, signed, at least, by two or more reputable physicians, in actual practice, in said city, and by at least six resident freeholders, in and about the vicinity of said stagnant water, and, thereupon, the said council may, in the ordinance declaring said nuisance, direct that said nuisance be abated, or removed, by filling, or draining, by a proper sewer, or both, such lot, lots, Removal of nuisances.

or lands, by the owners, or occupants, thereof, within such reasonable time, as shall be deemed practicable by said council, and on the failure of any such owner, or occupant, to so abate the same, within said time, the said common council may order and cause the same to be so abated, at the expense of the owners, or occupants, of such lot, lots, or lands, or at the expense of both such owner, or occupant, and of such other persons, interested or affected by such nuisance, or by the construction of any such sewer, as may be deemed equitable and lawful between all the parties, to be determined by said common council.

Regulations to govern city.

34th. To make, ordain, amend, and repeal all such ordinances, by-laws, and police regulations, not contrary to the constitution of this state, for the good order and government of the city, and which may be necessary, or expedient, to carry into effect the powers vested in the mayor and common council, or any officer of said city, by this act, or which may be vested in any officer of said city, by any ordinance thereof.

Breweries, tanneries, etc.

35th. To direct the location, and regulate and license breweries, tanneries, and packing houses.

Street railways.

36th. To authorize the building, construction, and maintaining of street railways, upon any of the public streets of said city, upon such regulations and conditions, as the common council of said city shall prescribe.

Lights.

37th. To authorize the building, construction and maintaining of water works, and the construction and maintaining of electric lights.

Ordinances, how passed.

SECTION 37. All laws, ordinances, regulations and by-laws, shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor; and shall, within fifteen days after their passage, respectively, be published in the official paper or papers of said city, once before the same shall be in force, and within fifteen days thereafter, they shall be recorded by the city clerk in books to be provided for that purpose; but before any of the said laws, ordinances, regulations or by-laws shall be recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication, and such

record of such law, ordinance, regulation or by-law, and the proof of such record, certified by the clerk, under the seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication of such law, ordinance, regulation or by-law. No appropriation shall be made without a vote of a majority of the members of the common council in its favor. And all the by-laws and ordinances of the city of Wausau now in force, shall be and remain in full force and effect until the same are altered or repealed by the common council.

Shall not bar or hinder suits.

SECTION 38. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind, wherein more than twenty-five pounds of gun powder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required thereof, within the limits of said city, are hereby declared and shall be deemed, public or common nuisances.

Examination and adjustment of accounts.

SECTION 39. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, chief of police, and all other officers or agents of the city, at such times as it may deem proper, and also at the end of each year, and before the time for which the officers of the said city are elected or appointed shall have expired, or at any time thereafter. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers, for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council, in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account, or present his books, funds, moneys, and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law, against any officer or agent of said city who may be found delinquent or defaulting in his accounts,

or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

TITLE VI.

FINANCE AND TAXATION.

Control of funds.

SECTION 40. All funds in the treasury, except school, state and county funds, shall be under the the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council, and all orders drawn upon the treasurer, shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of the principal or interest of any outstanding indebtedness of said city, which shall be collected in money, or in orders drawn upon such funds respectively, and all orders shall be payable to the persons, or to the order of the persons, in whose favor they may be drawn, or bearer.

Annual tax.

SECTION 41. The common council of said city shall annually levy, upon the taxable property of said city, to defray the current expenses of said city and its schools, a tax sufficient for that purpose, and sufficient for any other purpose duly authorized.

Regarding the issue of bonds.

SECTION 42. The common council of said city shall not have power to issue any bonds or other evidences of debt, payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, or whenever duly authorized by a majority vote of the electors of the city, nor shall the common council issue in any one year, orders upon the city treasurer to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to build or repair bridges, or for any other special purpose, a special tax may be levied for such purpose, not exceeding ten thousand dollars ($10,000) in any one year, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected

Levying of taxes, when done.

SECTION 43. Taxes may be levied by the common council at any regular meeting, for the pur-

pose of paying any outstanding indebtedness of said city, and also for the payment of any bonds, or any other evidence of debt hereafter issued, or created, in accordance with the provisions of this act, or by authority of law. Said taxes, when so levied, shall be collected at the same time other city taxes are collected.

Accounts must be verified.

SECTION 44. No account shall be allowed by the common council, unless the same is verified by the owner thereof, or some person in his behalf.

Right of appeal granted.

SECTION 45. When the claim of any person, against the city, shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of such council to the circuit court for the county of Marathon, by causing a written notice of such appeal to be served on the clerk of said city, within thirty days after the making of such decision, and executing a bond to said city, with sufficient surety, to be approved by said clerk, county judge or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court.

Duty of clerk when appeal is taken.

SECTION 46. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as, by the ordinance or resolution of said common council, he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with its decisions thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of Marathon, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest, upon such allowance, the appellant shall pay the cost of appeal, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against appellant for the amount of such excess.

SECTION 47. No action shall, hereafter, be main-

Claim must first be presented.

tained by any person against the city of Wausau, upon any claim or demand, other than a city bond or order, unless such person shall first have presented his claim to the common council of said city.

Determination of council, shall be final.

SECTION 48. The determination of the common council, disallowing in whole or in part, any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, unless an appeal shall be taken from the decision and determination of such common council, as hereinbefore provided, within ninety days after such decision or determination, or unless such council shall consent and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that when the common council shall refuse or neglect to act upon any claim duly presented to it, this chapter shall not be so construed as to prevent the institution and maintenance of an action by said claimant against said city.

TITLE VII.

ASSESSING, LEVYING AND COLLECTING OF TAXES.

All property subject to taxation.

SECTION 49. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, its schools, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessors elected under this act shall have and possess the same powers, that are or may be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls, as it may, from time to time, deem advisable.

Public notice shall be given.

SECTION 50. When the assessment roll shall be completed, the assessors shall give one week's notice thereof, in the official paper or papers, and shall fix a time and convenient place where they will hear any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessors shall make such alterations or reductions as justice or equity shall

require; provided, the time of hearing of such objections shall not be more than one week from the expiration of such notice.

Board of equalization shall supply omissions in roll.

SECTION 51. Within one week after the time limited for the hearing of such objections, the assessors shall return the said assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same, may alter and add to, take from, and otherwise revise and correct the same.

Roll shall be made for each ward separately.

SECTION 52. The assessment of said city may be made for each ward separately, or as directed by the common council. And when made by wards, real estate not platted into lots and blocks, shall be assessed in forty acre tracts, or other legal sub-divisions of sections, in the ward where the same, or the largest portion of said tract is located. The booms, piers and franchises of the "Wausau Boom Company," in the Wisconsin river at Wausau, may be assessed in one item, in any ward of said city, in which any portion of the works of said company are located, as may be determined by the assessors.

Respecting omissions in tax roll.

SECTION 53. If it shall appear to the assessors, that any lot or parcel of land was omitted in the assessment roll of either, or both, of the preceding two years, and that the same was then liable to taxation, they shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omissions occurred, and such assessment shall have the same force and effect as it would have had, if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosesoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void, by reason of any defect or informality in the assessing, levying, selling or conveying of the same, but not affecting the equity and justice of the tax itself, the common council shall cause

the tax or assessment so set aside, or declared void, to be re-levied, in such manner as it shall, by ordinance, direct; provided, that if the defect was in the assessment, the same shall be again assessed, at such time as the common council shall direct, and the said tax or assessment so assessed, shall be levied and continue a lien upon such lot or tract, and shall be collected as other taxes and assessments are collected under this act.

Board of equalization.

SECTION 54. The mayor, city clerk, city treasurer and the assessors shall constitute the city board of equalization, and shall meet at the office of the city clerk, on the last Monday of June, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are, by law, required to proceed so far as the same is applicable, reviewing, correcting, and equalizing the assessment rolls of the several wards in the city. The mayor shall be president of the board of equalization, and the city clerk, the clerk thereof. The members of the board of equalization shall receive for their services such compensation as may be allowed by the common council, not exceeding three dollars ($3) per day.

Roll shall be filed with clerk.

SECTION 55. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk. Thereupon, the common council shall, by resolution, levy such sum or sums of money as may be sufficent for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage, particularly specifying the purposes for which the same are levied.

Changes to be recorded by clerk.

SECTION 56. All changes of assessment rolls by the board of equalization, shall be duly recorded by the city clerk.

Taxes to remain a lien.

SECTION 57. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, from the delivery of the warrant for the collection thereof, until such taxes shall be paid, and no sale or transfer of such real or personal estate shall affect such lien; any personal property belonging to the person taxed, may be taken and sold for the payment of taxes upon real or personal property.

Duty of clerk.

SECTION 58. It shall be the duty of the city clerk, immediately upon the reception of the corrected assessment roll, and a certificate of the

amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with all the city and other local taxes, adding thereto three per cent. for the expense of collection, in an additional column prepared for that purpose in the assessment roll, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents.

Duplicate copy.

SECTION 59. The said city clerk shall immediately make out a duplicate copy of such assessment roll, when thus completed, and deliver the same to the treasurer on, or before the second Monday in December in each year.

SECTION 60. To each assessment roll so delivered, a warrant, under the hand of the city clerk, and the corporate seal of said city, shall be annexed substantially in the following form:

Form of warrant.

The state of Wisconsin, to the city treasurer of the city of Wausau, in the county of Marathon:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll, and of the owners or occupants of the real estate described therein, the taxes set down in such roll, opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom any such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected, after deducting your fees, you are first to pay the treasurer of said county, on or before the last Monday of January next, the sum of ——— for state taxes, and the further sum of ———, for county purposes, and the balance of said money you are required to retain and pay out according to law; and in case said taxes and assessments shall not be paid before the fourth Monday of February next, you are required to return the same to the county treasurer of the said county of Marathon, as required by law.

Given under my hand and the corporate seal of the city, this —— day of ——— , 18—.

———,
City Clerk.

Roll to be evidence.

SECTION 61. The said assessment roll and warrant thereto attached, shall be *prima facie* evidence in all courts that the lands and persons therein named, were subject to taxation, and that the assessment was just and equal.

General laws to be in force.

SECTION 62. All the general laws of this state, which are now, or may hereafter be in force, relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided; and the city treasurer shall proceed to collect the taxes and all assessments of said city, in the same manner as is required by law of the town treasurer to collect taxes, except as herein provided.

Publication of notice.

SECTION 63. Upon the receipt of any tax roll and warrant by the treasurer, he shall give public notice, in a newspaper published in said city, that such tax list (describing for what purpose such taxes are levied), has been committed to him for collection, and that he will receive payment for taxes at his office, until the second Monday in January next ensuing the date of said notice. If the taxes are not paid within that time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written notices, in as many public places in the city.

Fees for collection.

SECTION 64. The treasurer shall receive and collect as fees, one per cent. upon all taxes collected by, or paid to him, prior to the first Monday of January in each year, and three per cent. upon all taxes or assessments paid to, or collected by him after the said first Monday in January; and in case of a distress and sale made by him of goods and chattels, for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sale of goods, upon execution. He shall collect the fees hereinbefore prescribed, and keep in a book, to be provided for that purpose, a true account and statement of all fees by him received or collected as such treasurer, from any source whatever, and such book shall be open, at all reasonable times, to the inspection of any person; and he shall, when required, make a report to the common council, duly certified on oath, of all fees or other moneys received by him as such treasurer. All fees so received or collected by said treas-

urer, shall be paid into the general fund for the use of said city. Such treasurer shall receive as a compensation for his services, such sum as the common council, at its first regular meeting in the month of March of each year, shall determine, which compensation, when so fixed, shall not be increased or diminished during his term of office, except that the common council shall provide him all necessary books, blanks and stationery requisite to the discharge of his duties, and he shall receive no other or further compensation as treasurer, than as herein provided.

Directions only directory.

SECTION 65. All the directions hereby given, for the assessing of lands and levying and collecting of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the offices intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate, or in any wise affect the validity of the tax or assessment.

No proceedings unless taxes are paid or tendered.

SECTION 66. No person shall be permitted to institute any proceedings to set aside any assessment, or special tax hereafter levied or assessed upon any lot or tract, or to set aside, or set up, or interpose any objection to the title derived by virtue of any tax deed, executed in consequence of the non payment of such taxes, and of the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit for his use with the city treasurer, the amount of all state, county and city taxes that may remain unpaid on such lot or tract, together with the interest and charges thereon.

Return of delinquent taxes.

SECTION 67. The said treasurer of the city of Wausau, shall return all delinquent taxes of said city to the county treasurer, in the same manner and form as is now, or may hereafter be, provided by the general law of this state for the return of delinquent taxes by town treasurers.

TITLE VIII.

OPENING STREETS, ALLEYS, GROUNDS, ETC., OR DISCONTINUING THE SAME.

Regarding the opening of streets, and the manner of condemning land.

SECTION 68. The common council of the city of Wausau, shall have power to lay out public squares, grounds, streets and alleys, and to alter and widen the same as follows: Whenever ten or

more freeholders residing in any ward, shall, by petition, represent to the common council, that it is necessary to take certain lands within the ward where such petitioners may reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys; or the enlarging of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to such petitioners, the common council may then, by resolution, resolve to grant the prayer of said petitioners; and it shall forthwith cause an accurate survey and plat of all lands necessary for said purposes, to be made and filed with the city clerk, and it may purchase or take by donation, such grounds as shall be needed, by agreement with the owner, and take from them conveyances thereof to the city for such use or in fee; but otherwise it shall, by resolution, declare its purpose to take the same, and therein describe by metes and bounds the location of the proposed improvement, and the land proposed to be taken therefor; the common council shall, thereupon, cause notice of such application to be given to the occupant or occupants of such lands, if any there be, or if any portion of said land shall not be in actual occupation of any person, then the common council shall cause such notice, describing as near as may be, the premises to be taken, to be published in the official paper, or papers, four weeks successively, at least once in each week, and proof of such service or publication, by affidavits, shall forthwith be filed with the city clerk.

What notice shall state.

SECTION 69. Such notice shall state, that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge, or court commissioner, for the county of Marathon, for the appointment of twelve jurors, to view said premises, and to determine whether it will be necessary to take the same, for the purposes specified in said petition.

Appointment of jurors.

SECTION 70. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge, or court commissioner, shall, thereupon, appoint twelve reputable freeholders, residents of

said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge, or court commissioner, shall, thereupon, issue his precept, directed to said jurors, requiring them, within ten days, to view the premises, to be specified in said precept, and to make returns, under their hands, to the common council, whether, in their judgment, it is necessary to take such premises, for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath, faithfully and impartially to discharge their duties, as such jurors, in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Service of precept.

SECTION 71. The chief of police shall serve his precept, immediately, on the jurors therein named, by reading the same to every one that can be found; and, immediately after such service, he shall return the said precept to the judge, or court commissioner, who issued the same, together with his doings thereon.

In case jurors are disqualified.

SECTION 72. If any of the jurors, so appointed, cannot be found, or shall be disqualified from acting, or shall refuse to act, the judge, or court commissioner, shall appoint others in their places, and a memorandum of such substitution shall be indorsed on the precept.

Oath to be administered.

SECTION 73. The said judge or court commissioner, or any justice of the peace, shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

Jurors to examine premises.

SECTION 74. The said jurors, at such time as they shall agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment,

it is necessary to take the premises in question for public use; which said report, testimony and precept shall be returned to the common council, within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings, confirming said report, and direct the same jurors within twenty days thereafter, or such future time as shall be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of said property proposed to be taken, and to assess and return, within the time limited, such damages to the common council. And after the jurors shall have made their report as to the taking of any lands or premises, under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve in ascertaining the amount of compensation as above; and all the jurors, before entering upon the discharge of the duties in the premises, shall severally take an oath before some competent officer, that they are freeholders in said city, and are not interested in the premises to be taken, and that they will faithfully and impartially discharge the trusts reposed in them.

In case buildings are on premises.

SECTION 75. If there should be any building, in whole or in part, upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to him, to remove.

Personal notice of removal shall be given.

SECTION 76. At least ten days' personal notice of such determination, shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all parties interested, shall be given, by publication, in the official paper or papers of said city, three successive weeks. Such notice shall specify the building and the award of the jurors. It shall require the parties interested, to appear by a day therein named, or give notice of their election to the common council, either to accept the award of the jurors and

allow such building to be taken, with the lands appropriated, or their intention to remove such building. He shall have such time for this purpose as the common council may allow.

If owner refuses to take buildings at value assessed.

SECTION 77. If the owner shall refuse to take building at the value to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building, at public auction, for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner, or deposited to his use.

Jurors to determine value, make report, etc.

SECTION 78. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment, and to determine and appraise to the owner or owners the actual value, in money, of the real estate so proposed to be taken, and the injury arising to them respectively, in consequence thereof, which shall be awarded to such owners respectively, as damages. In the estimates of the damages to the land, the jurors shall include the value of the building or buildings, (if the property of the owner of such land), as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case, they shall only include the difference between such value and the whole estimated value of such building or buildings.

If they belong to different persons.

SECTION 79. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment, or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interest, respectively, shall be awarded to them by the jurors.

Award shall be signed by jurors.

SECTION 80. The award of said jurors shall be signed by them and returned, together with the testimony taken and the precept, to the common council, within the time limited in such precept.

Regarding appeals.

SECTION 81. Any person whose property is taken, or against whom any assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages, to the circuit court of

Marathon county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond in the manner prescribed in section 45 of this act, and such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall also have the right to appeal, by filing with the clerk a notice thereof, within ten days, as aforesaid.

Land shall not be taken until damages are paid or tendered.

SECTION 82. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof, shall be paid or tendered, to the owner or his agent; or, in case the said owner or his agent cannot be found, or is unknown, deposit to his or their credit, in some safe place of deposit, and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys, and public grounds open or laid out.

Tender of damages.

SECTION 83. The damages assessed shall be paid, or tendered, or deposited, as herein required, within one year from the confirmation of such assessment and report; and if not so paid, tendered, or deposited, all the proceedings in any such case shall be void.

Time when tender may be made.

SECTION 84. The city may pay, or tender, or deposit as herein required, at any time within one year from the confirmation of such assessment, and report the damages assessed in any such case; and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order among its proceedings, to take and appropriate such lands for the purposes required.

Covenants on land to cease when taken.

SECTION 85. When the whole of any tract or lot, or other premises under lease, or other contract shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties touching the same, or any part thereof, shall, upon the confirmation of such report, respectively cease and be absolutely discharged.

Same when only a part is taken.

SECTION 86. When only a part of lot or tract of land, or other premises so under lease, or other contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of

such report, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to residue thereof; and the rents, considerations and payments reserved, payable and to be paid for, or in respect to the same, shall be so proportioned, so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, or in respect to the same.

In case owner is a minor.

SECTION 87. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant, or labor under legal disability, the judge of the circuit court of Marathon county may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian. Whenever any public grounds, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made, and filed in the office of the city clerk.

Vacating streets

SECTION 88. The common council shall have the power to vacate or discontinue, in whole or in part, any highway, street, alley or public walk, within the corporation limits of the city; provided, however, the necessity of so vacating or discontinuing of the same, shall be first established by a verdict or report of a jury, in like manner as is provided for laying out public squares, grounds and streets in this chapter.

Costs to be paid by city.

SECTION 89. The cost of all proceedings under this chapter, shall be paid by the city, and shall be estimated as follows: The jurors shall be entitled to one dollar ($1) per day for each day's attendance; the judge or court commissioner, in full for his services in any one case, five dollars, ($5); the printer shall be paid according to legal rates. All papers relating to any case under this title, shall be returned to the city clerk and filed in his office, and the report and findings of the jury, and the confirmation thereof by the council, may be recorded in the office of the register of deeds of said county.

TITLE IX.

OF GRADES, SIDEWALKS, PAVEMENTS, ETC.

Respecting g ades.

SECTION 90. The common council of said city, shall have power by ordinance, to establish, alter

or change the grade on any and all streets in said city, and when so established, altered or changed, it shall cause accurate profiles thereof, to be made and filed with the city clerk, and all such grades shall be worked in accordance with such profiles, and the ordinance establishing, altering or changing the same; provided, that whenever the grade on any street, shall be changed or altered after the same shall have been established and worked, any person who shall have sustained damages in consequence of such change or alteration, shall have a claim against the city for such damages, but no action shall be commenced against the city for the same, until after such claim shall have been made out and submitted to the action of the common council for allowance, in the same manner and for the same length of time as is provided by section 45 of this act. The said common council shall also have power, by ordinance, to cause gutters, sewers and pavements to be constructed in said city, as hereinafter provided. Every ordinance for either of the above purposes, shall be introduced at least one week before the same shall be finally acted upon.

Improvements over $100, how made.

SECTION 91. Before any new gutter, sewer, pavement, or any other street improvement, the cost of which shall exceed the sum of one hundred dollars ($100), except the building of bridges, shall be ordered to be made or done, a petition therefor, describing the purpose, shall be presented to said council, signed by two or more owners of lots or parcels of land on such street, or part thereof, adjoining such proposed improvement. Upon presentation of such petition, the said common council shall fix a time and place when such petition shall be heard, not less than one week thereafter, and cause notice of such hearing to be given by publication in the official city paper or papers; and if, upon such hearing, the said common council shall determine that such improvement, gutter, sewer or pavement is necessary, then the same shall be made at such time, in such manner, and of such materials, as the common council shall, by ordinance, direct; provided, that this section shall not apply to the opening and grading of new streets.

Ordinance to describe improvements to be made.

SECTION 92. Every such ordinance shall particularly describe the improvement, gutter, sewer, or pavement to be made, and direct the time in

which it shall be done, and materials out of which the same shall be constructed and manner of construction, and each owner of any lot or parcel of ground adjoining the proposed improvement, gutter, sewer or pavement, shall construct the same in front of his own premises; and in case of pavements, shall build and construct the same to the center of the street, and such work shall be done as prescribed in such ordinance and according to the established grade of the street upon which the same is located.

Sidewalks shall be constructed on proper grade.

SECTION 93. Sidewalks shall be constructed, reconstructed or repaired, upon the proper grade of any street in said city, of such width, and in such manner, and of such materials, and in such time, as the common council, by ordinance, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalks shall be ordered.

Owners required to construct sidewalks according to ordinance.

SECTION 94. If the owner of any lot or piece of ground against which such improvement or sidewalk is to be made by such ordinance, shall not construct such sidewalk, or make such pavement, gutter, or other improvement, in the manner, out of the materials, and at, or before the time designated, and according to the ordinance, the said common council shall cause such sidewalk to be built, or pavement, gutter, or other improvement to be made forthwith, at the expense of the owner so being in default; and the street superintendent, or any person designated by said council, shall superintend, hire competent men, buy suitable materials, and cause, under the direction of said council, such sidewalk to be built, or such other improvement to be made, and shall keep an accurate account of the expense in full, street superintendent's fees and all, against each person so in default, and make out a statement of the same against each, and after the said statement shall be duly verified by said street superintendent, or other person so designated, he shall deliver the same to the city clerk, who shall, in making out the next tax roll of the city, after such delivery of statement, enter such unpaid expense in a column of such tax roll opposite to the description of the land against which such sidewalk or other improvement shall have been made, which expense, so entered, shall be a lien on said land the same as any other tax, and be collected the same as any

other tax, and paid over and held by the city treasurer in the general fund of said city, and paid out as such.

Street superintendent to repair sidewalks when expense is not over $5,00.

SECTION 95. Whenever a sidewalk or gutter shall be out of repair, and so remain for twenty-four hours, which in the opinion of the street superintendent will not cost exceeding five dollars ($5), in front of any one lot or piece of ground, and shall be dangerous to public safety or travel, it shall be the duty of the street superintendent to repair the same immediately, and certify the cost of the same against the owner of the lot or land, to the city clerk, who shall enter the sum in the next tax roll against the proper lot, as a tax, which shall be a lien thereon, and collect the same, as is mentioned in the foregoing section.

May let work to lowest bidder.

SECTION 96. The common council may, in its discretion, by an affirmative vote, let to the lowest responsible bidder, the construction of any sidewalk or gutter, or the making of any other improvement, on or along any street or highway in the city, which shall be so mentioned or called for, in the petition as above spoken of, for the same, or may also so let the building of any sidewalk or gutter, or the making of any improvement in such street, in case of any default in doing the same, in accordance with the ordinance authorizing the same, and the expense of doing such work, and of making such improvements, shall be collected against each lot owner fronting on the same, on the verified statement of such bidder, in the same manner as provided in section 94.

Street committee to have supervision.

SECTION 97. All the work mentioned in this chapter shall be done under the supervision of the street committee, and shall be approved by it, before the same shall be accepted by said common council; and the cost and expenses of making all surveys, taking all levels, and making all plans, plats or profiles for such work, shall be chargeable to and paid by the city.

Further respecting repair of sidewalks.

SECTION 98. The common council shall also, on complaint being made by any person, or to any member thereof, or on its own knowledge, or that of any member thereof, that any sidewalk already established in the city is out of repair, that the same is dangerous and unsafe for public travel, and the cost of such repair will exceed the sum of five dollars ($5), shall, by resolution, authorize and compel the owner or owners thereof, to rebuild

and repair the same without delay; and in case any such owner neglects or refuses to so rebuild or repair such sidewalk, within three days after being notified of such resolution, the common council shall cause the street superintendent, or some other person designated by it, to rebuild or repair the same forthwith, and to certify the cost in full for the same, against each lot so being in default, in the same manner as provided in section 94 of this act; and the city clerk shall place the same in the next tax roll in the same manner as therein provided; provided, that all kinds of real estate in the city exempt by the laws of the state from taxation for general purposes, shall not be exempt from the burdens imposed by this title, but shall be subject to, and pay such taxes for, such improvements, gutters, sewers, pavements and sidewalks, or repairs on the same, as other real estate in the city, in case the owner or owners thereof, neglect to build or construct the same, as hereinbefore provided.

Further, respecting the repair of streets.

SECTION 99. The common council of said city, shall have power to open up, grade and improve any street, or to build and repair any bridge or bridges within said city, whenever deemed necessary, and let to the lowest and best bidder, the grading and repairing of any such street, and the construction and repair of any bridge, the cost of which shall be paid from the general funds of said city.

TITLE X.

ACTIONS TO RECOVER PENALTIES, ETC.

Actions to recover penalties.

SECTION 100. All actions brought to recover any penalty or forfeiture under the ordinances, by-laws, or police or health regulations, made in pursuance of this act, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt, for such penalty or forfeiture, stating the section of the ordinance, by-law or regulations under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecution to begin by summons.

SECTION 101. In all prosecutions, for any violation of any of the provisions of any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in criminal cases, before justices of the peace, un-

der the general statutes of the state. Upon return of the warrant, if commenced by warrant, the judge may proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security, to be approved by the court, for his or her, or their appearance, in such sum as the court shall direct, or, in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Marathon county. The complaint made as aforesaid, shall be the only complaint required, and the plea of not guilty, shall put in issue all subject matter embraced in the action.

Printed copy to be evidence.

SECTION 102. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in a pamphlet, or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence, on trial of all cases, cognizable before any court of this state.

Witnesses and jurors shall attend without the prepayment of fees,

SECTION 103. Witnesses and jurors shall attend before the municipal judge in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment.

Jury trial allowed either party.

SECTION 104. In city prosecutions, a jury shall be allowed either party, or may be tried by the court, and the findings of the court or jury shall be, guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act or in the ordinance, by law or regulation for the violation of which the person or persons shall have been adjudged guilty, and for cost of suit; but if not guilty the cost of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the judge shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, or by commitment in case it was commenced by warrant, and shall, in either case, determine and enter upon his docket, the length of time the defendant shall be imprisoned, which, in no case, shall exceed six months, and also insert such time in the execution of com-

mitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF MARATHON, } ss.
City of Wausau. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Wausau, on the ——— day of ———, 18—, recovered a judgment, before the undersigned, municipal judge, in and for said city, against ——— ———, for the sum of ——— dollars, and ——— cents, costs of suit, for the violation of section ———, of an ordinance, or by-law, or regulation of said city (describing it by its title): You are hereby commanded to levy distress of the goods and chattels of said ——— ———, excepting such as the law exempts, and make sale thereof, according to law, to the amount of said sum, together with your fees, and twenty-five cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels, whereon to levy, to take the body of said ——— ———, and him convey and deliver to the keeper of the common jail, in Marathon county, and the said keeper is hereby commanded to receive, keep in custody in said jail, the said ——— ———, for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this ——— day of ———, 18—. ——— ———, Municipal Judge.

Form of commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy, and sale, and return of writs.

Appeal by defendant.

SECTION 105. In all cases where the fine is more than twenty dollars ($20), the defendant may appeal from such judgment, to the circuit court of the county of Marathon; provided, such defendant within twenty-four hours, enters into a recognizance, with one or more sufficient sureties, to be approved by such judge, conditioned to appear before said court, and abide the judgment of the court therein. The judge shall make a special return of the proceedings had before him, and shall, forthwith, cause the summons, or warrant, and return, together with the proceedings, and

copy of the entries of his docket, in the action, together with the recognizances, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Appeal shall stand for trial.

SECTION 106. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof, after the day the judgment of the judge shall be rendered, and no notice of trial shall be required to be given to, or by either party.

In case judgment is affirmed.

SECTION 107. If the judgment of the municipal judge shall be affirmed, or if, upon the trial, the defendant shall be convicted, the court shall inflict the penalty provided by the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him, or them and their sureties, for such penalty, together with the costs in both courts, and enforce the same by execution, as in actions of tort.

Shall not work incompetency.

SECTION 108. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Ordinances to remain in force.

SECTION 109. All ordinances and regulations now in force in the city of Wausau, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

Regarding actions by the corporation.

SECTION 110. All actions, rights and penalties, fines and forfeitures in suits or otherwise, which have arisen or accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

How to serve process against city.

SECTION 111. When any suit or action shall be commenced against said city, the service thereof, may be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of the said mayor or clerk so served, forthwith to inform the common council thereof, or to take such demand or proceedings as by ordinance or resolution of said council, may be in such case provided.

Penalties to be paid into city treasury.

SECTION 112. All penalties and forfeitures recovered and collected under and by virtue of any by-law, or ordinance of said city, shall be paid into the city treasury for the use and benefit of said city, except as otherwise herein provided.

SECTION 113. All fire engines, hose-carts, hooks and ladders and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings, owned or occupied by said city, for such engines, hose, hose-carts, hooks and ladders, and other apparatus and implements, shall be exempt from attachment or execution, issued in any action, or on any judgment, wherein the said city shall be a party. Fire engines to be exempt from attachment.

SECTION 114. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on, or sold by virtue of any attachment or execution, issued to collect or satisfy any contract, debt or obligation of said city, or on any judgment against said city. Property of citizens exempt from city judgments.

SECTION 115. The mayor shall have power to grant pardons or commutations, after convictions, for all offenses against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such action to the council at its next meeting, with the reasons therefor. Remission of penalties.

TITLE XI.

FIRE DEPARTMENT.

SECTION 116. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other material, that shall not be considered fire-proof, shall not be erected or repaired, and to direct that all and every building within the limits prescribed, shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the penalties for the violation of any resolution or ordinance, passed under this section. Fire limits.

SECTION 117. The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers, and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buck- Dangerous construction of chimneys.

ets, and in such manner and time as it shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fire; to regulate and prevent the use of fireworks and fire-arms; to compel the owners and occupants of buildings to have scuttles in the roof and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of the fire, all idle and suspected persons, and to compel all by-standers to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires, as the common council may deem expedient, and to provide penalties for the violation of any resolution or ordinance passed under this section.

Purchase of fire engines, etc.

SECTION 118. The common council shall have full power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and order such companies to be disbanded and their meetings to be prohibited and their apparatus to be delivered up. Each company shall not exceed seventy able bodied men, between the ages of eighteen and fifty years, and may elect its own officers, except chief engineer, who shall be appointed by the common council at its first meeting in each year, and to form its own by-laws, not inconsistent with the laws of the state, or the ordinances and regulations of said city, and shall be formed only by voluntary enlistments. Every member of said company, hereby authorized to be formed, shall be exempt from highway work and poll tax and from serving on juries, and military duty, except in case of war, insurrection or invasion, during the continuance of such membership; and any person, having served for the term of seven years in either of such companies, shall be forever thereafter, exempt from poll tax and military and jury duty, except as in cases before mentioned.

Fire warden.

SECTION 119. The mayor shall appoint one fire warden for each ward, subject to confirmation by the common council, who shall perform such du-

ties as the common council may prescribe, and they may, at any time, enter into any building, house, barn or enclosure for the purpose of inspecting the same.

Net proceeds of fines to go into fire-department.

SECTION 120. The net proceeds of all fines and penalties recovered and collected for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid by the city treasurer to the fire department; provided, however, the common council may order to the contrary.

Penalty for refusal to obey chief engineer.

SECTION 121. When any person shall refuse to obey the lawful order of the chief engineer, fire warden or aldermen of the city, the mayor or chief of police at any fire, it shall be lawful for the officer giving such order, to arrest, or direct orally, any policeman, constable or watchman, or any citizen, to arrest such person, and to confine him temporarily in any safe place, until such fire shall be extinguished, and in the same manner, such officers, or any of them, may arrest or direct the arrest and confinement of any person at such fire, who shall be intoxicated or disorderly; and any person who shall refuse to arrest, or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars.

Sack company and its duties.

SECTION 122. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such name as it may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the chief engineer. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Wausau, and are hereby vested with all the power and authority which now is, or may hereafter be vested in any other police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department. At fires they shall take charge of all property which may be exposed and endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as it may deem necessary, not inconsistent with the laws of this state, or the or-

dinances of said city. The members thereof, shall not be entitled to any compensation for any services rendered in their official capacity. They shall, in case of riot or other disturbances of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

Duties of treasurer of fire-department.

SECTION 123. The treasurer of the fire department, shall receive and pay out all moneys belonging to the said department, and shall secure the faithful performance of his duty by his bond to said city, in such penal sum as shall be required and with sureties to be approved by the common council. Such moneys shall only be paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department.

Officers of fire companies.

SECTION 124. There shall be elected by the members of each company aforesaid, annually, at their annual meetings, a clerk or secretary, and a treasurer, who shall, on or before the first Monday in May of each year, return to the city clerk a list containing the name of each member of their respective companies; and when any member of either of said companies shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given the city clerk.

City clerk to keep a record of members.

SECTION 125. The city clerk is hereby required to keep a record of the members of the several companies, organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries, as above provided; and no person shall be exempt from jury duty, unless the name is entered on such list. In case any person shall, for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the clerk of the board of supervisors of the county of Marathon, a list of all persons who are members of either or all of said companies, exempt from jury duty, on or before the day now appointed, or which may hereafter be appointed, for the annual meetings of said board, and said board shall not place the names of such persons on the jury list for the ensuing year.

Fire insurance companies to pay tax.

SECTION 126. All corporations, companies and associations, not incorporated under the laws of this state, engaged in said city in effecting fire in-

surance, shall pay to the city treasurer, for the support of the fire department, at the rate of two per cent. upon the amount of all premiums which shall have been received, or shall have been agreed to be paid, for any insurance effected, or agreed to be effected, on any property in said city, by or with such corporation or associations respectively, in manner and at the times prescribed by the general laws of the state in relation thereto. The money so received shall be used and paid out for the purposes of said fire department, subject, however, to the disposition or approval of the common council.

TITLE XII.

PUBLIC SCHOOLS.

School district.

SECTION 127. All the district of country within the corporate limits of the city of Wausau, shall be known and designated as school district number one, of the city of Wausau, for all purposes; provided, that the common council shall have the power to change, alter and define, or divide into two or more districts, as it may deem expedient.

School commissioners.

SECTION 128. The common council, of the city of Wausau, shall, annually, hereafter, at its regular meeting in May, elect two school commissioners, who shall hold their offices for three years, unless sooner removed by a vote of two-thirds of the appointing power. The terms of office of said commissioners, shall commence on the first Monday of July in each year. The school commissioners now in office, in said city of Wausau, shall so remain, and continue to act, until the terms for which they were respectively appointed, shall have expired.

Board of education.

SECTION 129. The school commissioners now in office, and hereafter elected under the provisions of the foregoing section, shall form the board of education of the city of Wausau, and a majority of said board shall form a quorum for the tranaction of business. It shall be the duty of the common council to supply, by appointment, any vacancy which may occur, from time to time, in the number of said school commissioners, by resignation or otherwise.

City superintendent of schools.

SECTION 130. Said board of education shall, annually, elect a city superintendent of schools, whose term of office shall commence on the first Monday of July, and said superintendent shall

continue in office for one year, and until his successor is elected, unless sooner removed by a two-thirds vote of the board of education, for misconduct, or other sufficient cause.

President of board of education.

SECTION 131. The board of education shall, at its first regular meeting, on the first Monday in July of each year, elect one of its members president, who shall preside at all meetings of the board, and preserve order and decorum thereat, and decide all questions of order, subject to appeal to the board. He shall countersign all orders drawn by the secretary for the payment of teachers' and janitors' wages, and all other incidental and necessary expenses of said board of education, including superintendents' salary, and in all suits brought by, or against the school district, he shall appear in behalf of the district, unless some other provision is made by the board of education. He shall declare all votes taken on questions coming before the board; provided, that on all questions requiring appropriations of money, or the adoption of new text-books, the vote shall be taken by ayes and noes, and on any other question the ayes and noes shall be called when any member shall request; provided, further, that in the absence of the president, the board shall elect a president *pro tempore.*

Regular meeting of board.

SECTION 132. The board of education shall have at least one regular meeting in each month, at such time and place as may be designated by it; and it may have special meetings at such other times as it may deem necessary, or when called together by the president; but no such special meeting shall be legal unless each member, of the board shall have first been served with notice, in writing, of the time and place of such meeting.

Annual salary of city supt.

SECTION 133. The city superintendent of schools, shall receive an annual salary, to be paid quarterly, the amount of which shall be determined from year to year by the common council; but the members of said board of education shall receive no compensation for their services, as such.

Powers and duties of board of education.

SECTION 134. The duties and powers of the board of education shall be as follows:

1st. To elect at its regular meeting in July, in each year, a city superintendent of schools; but if such election shall not then be had, the said

superintendent shall be elected at some regular meeting thereafter.

2d. To decide upon the number of teachers to be employed, the grade of school to be kept by each, and the amount of salary to be paid each, and to hire and make contracts with teachers; and before any teachers shall enter upon his or her duties as such, he or she shall enter into a written contract, which contract shall be signed by such teacher and by said board of education, or by some member thereof, designated for that purpose by resolution of said board. Such contract shall be made in duplicate, and one copy thereof, filed with the secretary and the other copy delivered to the teacher.

3d. To arrange and determine terms and vacations in all public schools, to establish uniformity in the school system, and to require and secure uniformity in text books, and to adopt and reject text books at will.

4th. To establish rules and regulations for schools, not in conflict with the constitution or laws of this state, and shall have full control over all school and school districts within said city, except as herein provided.

5th. To make contracts for fuel, stationery and articles of furniture required for the use of the schools; to make all necessary repairs in school houses, lighting fires, sweeping school rooms, etc., and such contracts when executed, shall be paid by orders drawn on the city treasurer, payable out of the school fund, which orders shall be signed by the president of the board of education, and countersigned by the secretary of said board.

6th. The said board shall, annually, on or before the first day of October in each year, submit a statement to the mayor and council, showing the amount of teachers' wages that have accrued and become due during the year, and the amount of all other indebtedness accruing on contract or otherwise, that have been made by order of the board, and for that purpose it shall cause entries to be made, in a book or books, to be provided by the city, of all contracts made by the teachers, and the amount of salary to be paid, and of all other expenditures made or authorized by said board, at the time the same shall be made or authorized by said board, which book or books shall be subject to inspection in the same manner as the records of the

proceedings of said board, and it shall, at the same time, submit for the consideration of the council, a statement of the estimate required for carrying on the schools for the ensuing year, specifying the amount required for teachers wages and other items separately and specifically. Nothing in this section contained, shall prevent the mayor and common council from taking into consideration the amount to be received from the state, from the income of the school fund, and the amount to be received from the county school tax, during the ensuing year, and the common council may order and direct, by a two-thirds vote, any other duty or thing to be done by said board.

Regarding repairs.

SECTION 135. Whenever repairs to a larger amount than one hundred dollars ($100), shall, in the opinion of the board, be required for any one school house, they shall cause a statement to be made showing the repairs required, and an estimate of the cost thereof, to be laid before the common council; and whenever in its opinion, another school house shall be required, it shall cause estimates of the cost of a site for such house or houses, and a plan of the proposed building or buildings, together with the estimates of the cost of the same to be made, and submit the same for the consideration of the common council, which shall forthwith take measures to raise a tax to defray the cost of such repairs, or the erection of such building or buildings, and the purchase of a site or sites, unless there shall be a two-thirds vote of the whole number of aldermen and supervisors of the city against the same, in which case such proposed repairs shall not be made, nor shall such site or sites be purchased, or building or buildings erected; and it shall be the duty of said board to enter into contracts for making such repairs, or for the erection of such buildings, or for the purchase of such sites, whenever it shall be made to appear that the necessary tax for the same has been levied, or authorized by the mayor and council.

Drawing of orders.

SECTION 136. It shall be the duty of the president and secretary of the board of education, to draw orders on the city treasurer, payable out of the school fund, for teachers' and janitors' wages, and all other expenditures authorized by this act, and said orders shall be paid by said treasurer out of the funds drawn upon, and in no other way

shall the school fund be paid out by said treasurer.

SECTION 137. No member of the board of education shall have any interest, direct or indirect, in any contract made by said board, and every contract so made, in which any member of said board shall have such interest, shall be absolutely void. Members of shall not be interested in any contract.

SECTION 138. The duties of the city superintendent shall be as follows:

1st. To examine all applicants for teachers' licenses in the branches taught in the public schools, of said city, and if approved, give them certificates authorizing them to teach in the city.

2d. To annul a teacher's certificate whenever he may think proper; provided, that such teacher shall have the right to appeal to the board of education.

3d. To visit each school department in said city, at least once during each week.

4th. To report for the consideration of the board of education, such text books as he may think advisable and proper for the use of the schools, and to report such alterations therein, from time to time, as he may think most beneficial for the schools in said city.

5th. To report to the board of education at such regular meeting, relative to the condition of the schools under his supervision, and particularly, as to the average attendance at each school since the previous regular meeting; to make such recommendations as shall, in his judgment, conduce to their welfare, and perform such other duties as may be required of him by the board.

6th. He shall, between the first and tenth days of September, in each year, make a statement of the number of children, male and female, designated separately, over the age of four and under the age of twenty years, residing in the city on the last day of August, previous to the day of such report; and shall, on or before the tenth day of October in each year, make and transmit to the state superintendent, a report containing the facts set forth in the general school laws of this state, a copy of which report he shall present to the board of education at its first meeting thereafter.

7th. He shall attend all the meetings of the board of education, and shall be the secretary thereof, and then make any suggestions he may

think advisable relative to the government of the schools in said city.

Non-resident children.

SECTION 139. Said board of education shall have power to allow the children of persons, not residing within the city, to attend any of the schools in said city, upon such terms as said board shall, by resolution, prescribe.

Territory of city independent of county supt. of schools.

SECTION 140. The territory embraced within the limits of the city of Wausau, is hereby declared to be, and is independent of the jurisdiction of the county superintendent of schools of the county of Marathon, and exempt from all taxation for his support and salary, and the superintendent of schools of Marathon county shall hereafter, after the termination of the present term, be elected independent of said city of Wausau.

Power to change boundaries of school district.

SECTION 141. The common council shall have the power to change the boundaries of school districts situated within the limits of the city of Wausau; to form new districts; and to do all things in relation to the alteration, formation or consolidation of school districts that the town board of supervisors can, by law, now do, and until otherwise ordered by the common council; all that territory within said city shall be one school district, to be called school district number one, of the city of Wausau.

TITLE XIII.

MISCELLANEOUS PROVISIONS.

Contract to lowest bidder.

SECTION 142. All work for the city or either wards, may, in the discretion of the council, unless otherwise ordered, be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting the contracts. No moneys shall be appropriated for any purpose whatever, except such as are authorized by this act and in the manner herein authorized.

City authorized to subscribe to stock of Wausau boom company.

SECTION 143. The city of Wausau is hereby authorized to subscribe to the stock of the Wausau boom company, to an amount not exceeding the sum of thirty thousand dollars ($30,000), and to issue the bonds of said city to said company in payment therefor, and to levy upon the taxable property of said city, taxes to pay the interest as it accrues upon said bonds, which the said city may issue, and to establish a sinking fund for the gradual and ultimate redemption of said bonds at

maturity; and the mayor and common council of said city shall have power to negotiate and arrange with said boom company, the terms and conditions upon which such subscription for stock shall be made; to enter into all proper contracts with said company in relation to the same, and to adopt such ordinances and relations pertaining thereto, or to the taxes to be levied under this act, as may be expedient and proper and consistent with law; provided, that before any such bonds shall be issued or contracted for by said city, the question of granting the same, shall be submitted to a vote of the electors of said city, as hereinafter provided.

Notice of time of voting.

SECTION 144. The common council of said city of Wausau, may, at any time after the passage of this act, give six days public notice of the time and place of holding a special election for the purpose of voting upon the question of taking stock and issuing bonds, for the purpose aforesaid, by publishing such notice, once, at least, in each newspaper published in said city, and by posting three copies of such notice, in each of the wards in said city, in public places. Such notices to be posted at least six days prior to such election. And such notices shall specify the amount of stock of said company, to be subscribed for, the amount of the bonds of said city (not exceeding thirty thousand dollars, $30,000) to be issued therefor, the rate of interest (not exceeding seven, (7) per centum per annum) such bonds shall bear, and when such interest shall be made payable, and the time when such bonds shall mature, which shall not be more than ten years from the time the same shall be issued.

Where election is to be held.

SECTION 145. Such special election shall be held in the several wards in said city, at the usual place of holding elections, and be managed by the officers authorized to manage general elections, and the same shall, in like manner, be conducted, canvassed and certified.

Form of ballots.

SECTION 146. Those voting for the proposed taking of stock in said company, shall deposit a ballot, containing the words "for taking stock in the boom company," and those voting against it, shall deposit a ballot, containing the words "against taking stock in the boom company." All qualified electors shall be authorized to vote, and a majority of the votes cast on the subject shall

govern. In case a majority of the votes cast shall be against such taking of stock, the city council may call further elections, in the manner herein provided, to vote upon the same, or other propositions, in relation to the same matter.

Result of election.

SECTION 147. In case a majority of the votes cast at any such election, shall be in favor of taking such stock, in the manner proposed, it shall be the duty of the mayor and common council of said city, to said city, to subscribe to the stock of said company, and to issue the bonds of said city, which shall be signed by the mayor and city clerk, to the amount and in the manner specified in such notice, and no other: provided, that such bonds shall not be delivered to said boom company, until the certificates of the stock of said company, to the amount and in the manner agreed upon, shall be deposited with the city clerk, and accepted by said city council.

City entitled to vote on stock owned.

SECTION 148. In case the said city shall become subscribers to the stock of said company, as hereinbefore provided, they shall be entitled to vote upon the same, and to control and dispose thereof, in the same manner as other stockholders, and receive any and all benefits that may arise therefrom.

City may sell stock.

SECTION 149. The common council of said city shall have power to sell said stock, after giving ten days' public notice of such sale, and to authorize the mayor and city clerk to transfer the same to the purchaser, upon such terms as may be agreed upon, not less than the par value of said stock, and to use the money so received, or such portion thereof as may be necessary therefor, as a sinking fund, for the redemption of said bonds at maturity; and when so decided by a two-thirds vote of all the members of said council, may use the funds so received, to pay any other indebtedness of said city, or for the construction of bridges, sewers or water works. And in case said stock is sold as aforesaid, all agreements and contracts entered into between the Wausau Boom Company and the city of Wausau appertaining to the same, shall cease and terminate.

Survey of streets may be made.

SECTION 150. The common council may, at any time, cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such per-

manent land-marks as it may deem necessary, and to cause an accurate plot or plots thereof, to be made and certified to by the surveyor, which shall be filed in the office of the city clerk, and recorded in the office of the register of deeds of the county of Marathon.

Surveys, etc., to be evidence.

SECTION 151. The surveys and land-marks so made and established, shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy, in all courts in this state.

Profiles to be made.

SECTION 152. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Marathon county.

City may hold and purchase real estate.

SECTION 153. The said city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and the same while owned, occupied or held by said city, shall be exempt from taxation.

Special taxation.

SECTION 154. Real estate exempt from taxation by the laws of this state, shall be subject to special taxation as other real estate under this act.

Deeds.

SECTION 155. When the city of Wausau deeds or leases any real estate or any interest therein, owned by said city, the party of the first part shall be the city of Wausau, and the person or persons authorized to execute such deed or lease, need not be named in the body thereof.

Deeds to be signed by mayor.

SECTION 156. The mayor of said city is hereby authorized, when the common council shall, by ordinance or resolution for that purpose, describe the real estate and interest to be conveyed under, and direct him so to do, execute a deed or lease of such real estate or interest therein, belonging to the said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided for the execution of deeds and conveyances.

Duties of city clerk.

SECTION 157. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the

ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds with said deed or lease; and such copy so attached and record thereof, shall be in all courts of this state, *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

If election shall not be held it shall not absolve corporation.

SECTION 158. If any election by the people for common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had at any subsequent day, by order of the common council; and if any of the duties enjoined by this act, or the ordinances or by-laws, or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which said act may be done and performed.

Not repealing.

SECTION 159. No general law of this state contravening the provisions of this act, shall be considered as repealing, annulling or modifying the same, unless such purposes be expressly set forth in such law as an amendment to this chapter.

Appropriation.

SECTION 160. The common council shall have power to appropriate a sum not exceeding five hundred dollars ($500), at any one time to any public purpose, it may deem proper; but no such appropriation shall be made, unless ordered by a two-thirds vote of all the aldermen elect.

Actions in tort.

SECTION 161. No action in tort shall lie or be maintained against the city of Wausau, unless a statement in writing, signed by the person injured or claiming to be injured, of the wrong and circumstances thereof, and amount of damages claimed, shall be presented to the common council within ninety days after the occurring or happening of the tort alleged.

Actions for damages.

SECTION 162. In case of injury or damage, by reason of insufficient, defective or dangerous condition of streets, sidewalks, drains, sewers, gutters, ditches or bridges, produced or caused by the wrong, neglect of duty, default or negligence of any person or corporation, such person or corporation shall be primarily liable for all damages for such injury, in suit for the recovery thereof, by the person sustaining such damages, and the city shall not be liable therefor, until all legal remedies

shall have been exhausted, to collect such damages from such person or corporation.

Lot owners to keep sidewalks in repair.

SECTION 163. The duty of always keeping the sidewalks, gutters, drains and ditches, on, or adjacent to the lots and premises of any person, in safe condition and good repair, is hereby expressly enjoined and imposed upon all owners or occupants of said lots and premises.

Vote to be taken by ayes and noes.

SECTION 164. If required by one member present, at any meeting of the common council, the vote upon any ordinance, resolution or question pending before such meeting, except the appointment of officers, shall, when taken, be taken by the yeas and nays of all the members present, and a record of such votes shall be entered at large in the minutes.

Reward may be offered.

SECTION 165. Whenever any grave or heinous crime shall have been committed in said city against life or property, the mayor, with the concurrence of the common council, may offer a reward for the arrest and conviction, or either, of the perpetrators of such offense; provided, that such award shall, in no case, exceed five hundred dollars ($500).

Appropriation.

SECTION 166. All appropriations of money voted under the provisions of this act, shall be by a vote of ayes and nays, and be entered in the journal.

Oath and bonds.

SECTION 167. All officers elected or appointed under the provisions of this act, shall, in all cases, when the method of qualification is prescribed by a general law of the state, conform thereto, and take such oath and file such bond, and do such other act as may be required by such law, in addition to any of the requirements of this act.

Executions against city.

SECTION 168. No execution shall ever issue upon any judgment against said city, but all judgments shall be collected and enforced in the same manner as payments against towns, and not otherwise.

Actions against city.

SECTION 169. In all cases where an action might be brought by the city of Wausau against any person, company or corporation, such action may be commenced and prosecuted in the name of the city, by any electors of said city; provided, that the complaint is made by any person other than a police officer, or said sheriff of Marathon county, or any officer of said city. The judge may, in his discretion, require security for costs, as in civil

cases before justices of the peace. And the city of Wausau shall have the use of the county jail for the purposes of this act, under such condition as the county board may prescribe.

Ornamental trees.

SECTION 170. The common council shall have power to require the owner of any lot or ground in the city, to set out ornamental trees in the street or streets fronting on the same, and in default thereof, to cause the same to be done, and to levy a special tax upon such lots or grounds to pay the expenses of the same.

Cemetery.

SECTION 171. The right of the citizens of the city of Wausau, to use the Wausau cemetery for burial purposes, shall not be impaired, anything in this act to the contrary notwithstanding; and the citizens residing within said city shall always have and enjoy the same rights and privileges in said cemetery as heretofore.

Town supervisors may hold meetings in city.

SECTION 172. It shall be lawful for the supervisors of any town in Marathon county to hold their meetings, for the transaction of town business, at any proper place within the city of Wausau, and the said town board may authorize and empower the town clerk and town treasurer of said town, to keep the books and papers of their respective offices at some suitable place within the limits of said city; provided, that the said city shall not be chargeable with, nor liable for any of the expenses arising or growing out of any of the provisions of this, or the preceding section; and, provided further, that the place of meetings, and a place for the town clerk and treasurer of the town mentioned in this and the preceding section, shall not be at any place or places of meeting of the common council, or of officers of the city, without consent first being obtained of the common council.

Poor laws.

SECTION 173. The laws of this state for the relief and support of the poor in towns, shall apply to said city, and the common council shall make such rules, regulations, ordinances and provisions in relation to the same, as it shall deem proper, and may adopt the county system in accordance with any resolution of the county board. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

Repealed.

SECTION 174. All acts and parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed; but the repeal of said acts or

parts of acts, shall not, in any manner affect, injure or invalidate any contracts, claims, penalties or demands, that may have been entered into, performed, commenced, or that may exist under or by virtue, or in pursuance of the said acts, or any former act incorporating the city of Wausau, or any of them; but the same shall exist and be enforced and carried out and completed, as fully and effectually, to all intents and purposes, as if this act had not been passed.

SECTION 175. This act shall take effect and be in force from and after its passage.

Approved March 24, 1883.

[No. 277, A.] [Published March 28, 1883.]

CHAPTER 152.

AN ACT to revise, consolidate and amend the city charter of the city of Fond du Lac.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER 1.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country included in the west half (½) of section two (2), and the west half (½) of the east half (½) of section two (2); all of section three (3); the east half (½) of the east half (½), and the east half (½) of the west half (½) of the east half (½) of section four (4); the east half (½) of the east half (½), and the east half (½) of the west half (½) of the east half (½) of section nine (9); all of section ten (10), and the west half (½) of section eleven (11); the west half (½) of the east half (½) of section eleven (11); the southeast quarter (¼) of the southeast quarter (¼) of section eleven (11); all of sections fourteen (14) and fifteen (15); the east half (½) of the east half (½), and the east half (½) of the west half (½) of the east half (½) of section sixteen (16); the north half (½) of the north half (½) of the northeast quarter (¼) of the northeast quarter (¼); and the northeast quarter (¼) of the northwest quarter (¼) of the northeast quarter (¼) of section twenty-one (21); the north Boundaries.

half (½) of the north half (½) of the north half (½) of section twenty-two; and the north half (½) of the north half (½) of the north half (½) of section twenty-three (23); all in township fifteen (15) north, of range seventeen (17) east, in the Menasha land district, in the county of Fond du Lac, and state of Wisconsin, shall be known and designated as the city of Fond du Lac.

Ward boundaries.

SECTION 2. The said city of Fond du Lac shall be and is hereby divided into eight wards, as follows, to wit:

FIRST WARD.

First.

All that portion of said city, described as commencing where the center of Second street intersects the east line of the city limits (being the east line of section fourteen (14), town fifteen (15), range seventeen (17); thence south along said east line of the city limits, to the quarter (¼) post, on the east line, on said section fourteen (14); thence west, along the quarter (¼) line of said section fourteen (14), and the center of East Eighth street, to a point opposite the east line of out-lot thirty-eight (38), in the west half (½) of the northwest quarter (¼) of said section fourteen (14); thence north, along the east line of said out-lot thirty-eight (38), to the center of Seventh street; thence west, along the center of Seventh street, to the center of Main street; thence south, along the center of Main street, to a point opposite the south line of lot twelve (12), block one (1), Darling's addition number three (3); thence west, along the south line of lots twelve (12), three (3) and seventeen (17), of said block one (1), to the east branch of the Fond du Lac river; thence westerly and northerly, along the center of said east branch, to the center of Second street; thence east along the center of Second street, to the place of beginning.

SECOND WARD.

Second.

Commencing where the center line of Second street intersects the east line of the city limits; thence running west, along the center of Second street, to the center of the east branch of Fond du Lac river; thence northerly, along the center of said east branch, to the center of Merrill street; thence easterly along the center of Merrill street, and the same line produced to the east line of the city limits; thence south and east, along said line of the city limits, to the place of beginning.

THIRD WARD.

Third. Commencing where the center of Western Avenue intersects the east branch of the Fond du Lac river; thence northerly along the center of said east branch to the center of Merrill street; thence west along the center of Merrill street to the center of Tallmadge street, or Tallmadge street extended; thence north along said Tallmadge street to the center of Russell street, or Russell street extended; thence west along the center line of Russell street and the same line extended to the west line of the city limits; thence south along the said west line of the city limits to a point opposite the center of Western Avenue extended; thence east to Western Avenue and along the same to the place of beginning.

FOURTH WARD.

Fourth. Commencing where the center of Cotton street intersects the center of the Fond du Lac river; thence southerly along the center of said Fond du Lac river to the center of Russell street; thence east along the center of Russell street, or Russell street extended, to the center of Tallmadge street, or Tallmadge street extended; thence south along said Tallmadge street to the center of Merrill street; thence east along the center of Merrill street and the same line extended to the east line of the city limits; thence north along said east line of the city limits to a point opposite the center of Cotton street; thence west to Cotton street and along the center line of the same to the place of beginning.

FIFTH WARD.

Fifth. Commencing where the center of Cotton street intersects the center of the Fond du Lac river; thence northerly along the center of said river to lake Winnebago; thence easterly along the shore of said lake Winnebago to the east line of the city limits; thence south along said east line of the city limits to the center line of Cotton street extended; thence west to Cotton street and along the center line of the same to the place of beginning.

SIXTH WARD.

Sixth. Commencing where the center of Russell street intersects the center of Fond du Lac river; thence

northerly along the center of said river to lake Winnebago; thence westerly along the shore of said lake Winnebago to the north line of the city limits; thence west along said north line of the city limits to the west line of the city limits; thence south along said west line of the city limits, to the center line of Russell street extended; thence east to Russell street and along the center line of the same place to the place of beginning.

SEVENTH WARD.

Seventh. Commencing at the intersection of the center of Western avenue and the center of the east branch of the Fond du Lac river; thence west along the center of Western avenue, and the same extended to the west line of the city limits; thence south along said west line of the city to the south line of the city; thence east along said south line of the city to the north and south quarter line of section twenty-two (22) in said city; thence north along said quarter line and the north and south quarter lines of section fifteen (15), to a point in the center of the east branch of the Fond du Lac river, where the east line of lot five (5), block three (3), Brushes' addition extended, would intersect the same; thence northerly along said east branch to the place of beginning.

EIGHTH WARD.

Eighth. Commencing on the east line of the city at the quarter post in the east line of section fourteen (14), town fifteen (15) north, range seventeen (17) east; thence west along said quarter line and the center line of Eighth street, to the east line of out-lot thirty-eight (38), in the west half (½), of the northwest quarter (¼), of section fourteen (14); thence north along said east line of out-lot thirty-eight (38), to the center of Seventh street; thence west along the center of Seventh street to the center of Main street; thence south along the center of Main street to a point opposite the south line of lot twelve (12), block one (1), Darling's addition number three (3); thence west along the south line of lots twelve (12), three (3), and seventeen (17), same block, to the east branch of the Fond du Lac river; thence westerly along the center of said east branch to the north and south quarter lines of section fifteen (15); thence south along said quarter line and the quarter line of section

twenty-two (22), to the south line of the city; thence east along said south line of the city to the east line of the city; thence north along said east city line to the place of beginning.

Change of wards.

SECTION 3. The common council shall have authority to change, alter or modify and reduce in number the wards, but not to increase the number thereof, provided such change or alteration or reduction of the number thereof, be first authorized by a two-thirds vote of the members of the common council elect, and ratified by the electors of the city by a vote thereon, as provided by section 17, of chapter 18, of this act.

CHAPTER 2.

CORPORATE NAME AND POWERS.

Corporate authority.

SECTION 1. The inhabitants now residing, and all who shall hereafter reside, within the district of country described in chapter 1 of this act, shall be a municipal corporation of the name of "the city of Fond du Lac," and shall possess the general powers of municipal corporations at common and statute law, and in addition thereto, shall possess the rights and privileges, and be subjected to the liabilities, rules and regulations hereinafter specifically granted and prescribed.

General and special powers.

SECTION 2. The authorities of such corporation shall have perpetual succession, and in the name of said corporation may sue, and be sued, complain and defend, in all courts; make and use a common seal, and alter it at pleasure, and may receive, by bequest, gift, grant, devise, and may purchase, hold and convey, contract and be contracted with, all such real and personal estate now, heretofore or hereafter to be owned by said corporation, as the purposes of the corporation may require.

CHAPTER 3.

CITY AND WARD OFFICERS.

City and ward officers.

SECTION 1. The officers of said corporation shall consist of a mayor, three aldermen from each ward, president of the council (who shall be elected by and from the members of the common council), city treasurer, city clerk, city attorney, sidewalk superintendent, health commissioner,

chief of police, policeman, fire marshal, one or more assistant fire marshals, city surveyor and engineer, sealer of weights and measures, superintendent of poor, purchasing agent, two justices of the peace, two constables, three assessors, and superintendent of schools. There shall also be one school commissioner and one supervisor in each ward of said city, and such other officers and agents as may be provided for by this act, or deemed necessary by the common council of said city.

Elective and appointive.

SECTION 2. The mayor, city treasurer, justices of the peace, assessors and constables shall be elected at the annual municipal election, by the electors at large; the aldermen and supervisors shall be elected by the electors of each ward, for their respective wards, at the time of the annual municipal election. All other officers and agents shall be appointed by the common council, at its meeting on the first Monday after the general municipal election, or at such other time, within two weeks thereafter, as the council may determine, and as often as may be necessary to fill vacancies; provided, that the superintendent of schools shall be elected by the board of education, at the first meeting thereof, in each year, or as soon thereafter as may be prescribed.

Terms of office.

SECTION 3. One alderman shall be elected annually in each ward of said city. They shall hold their office for three years, the last two years of which term they shall serve as members of the common council, and during the last year thereof, they shall be chairman of the board of aldermen of their respective wards. Their term of office, as well as that of the mayor, shall commence on the first Monday after the first Tuesday in April. The aldermen, now in office, shall continue therein during the term for which they have been respectively elected. The school commissioners shall hold their office for two years, and one shall be appointed for each even numbered ward, every even numbered year, and one for each odd numbered ward, every odd numbered year; and those now in office shall continue to hold office during the term for which they have been respectively appointed. The justices of the peace shall hold their offices for two years. All other officers of the city and wards, including that of Mayor, shall hold their offices for one year. And all officers

shall hold office until their successors be elected and qualified, and their term of office, except as herein otherwise provided, shall commence on the first day of May, when not otherwise designated by the council.

Vacancies.

SECTION 4. In case of any vacancy, in any of the offices, provided for in this act, the common council may fill the same, for the unexpired term of such office, except that vacancies in the office of justices of the peace, occurring ten days prior to any municipal election, shall be filled at the municipal election next ensuing, and until so filled by election, the common council may appoint a suitable person, temporarily, to such office.

Removal from office.

SECTION 5. Every officer, or agent, who shall be appointed by the common council, may be summarily removed, by a vote of two-thirds of all of the members of the common council elect, and the office declared vacant. No other officer shall be removed from office, except for good cause, nor unless furnished with charges, and an opportunity given such officer to be heard in his defense. The common council shall have power to compel any and all persons in said city, to appear before it, and testify in any hearing or proceeding, instituted to remove from office any officer mentioned in this act, or any agent, under said city government, for any violation of duty, or of any provisions of this act, or of any ordinance, resolution, rule, order, regulation, or by-law, of the common council of said city, either of omission, or commission, and such violation shall be cause for removal; and to revoke and vacate any license, granted under this act, and for that purpose, said council may make its order, commanding the person, or persons, therein named, to appear before it and testify, which order shall be certified by the clerk of the said city, under the corporate seal thereof, and personally served on the person, or persons, therein named, by delivering to each a true copy thereof, and for the purpose of compelling such appearance before it, and the giving of the testimony on such hearing, or proceeding, the said common council is hereby vested with the same power and authority, possessed by any court of record in this state, and any violation, or disobedience to the commands, or requirements, of a subpœna, issued out of any court of record in this state. The common council shall proceed to

Proceedings in removal.

said hearing, within ten days from the service of the charges upon the officer so charged, and may adjourn from time to time, as may be deemed necessary, and if such officer neglects to appear, and answer to such charges, or if such charges are sustained, then the common council may declare such office vacant. Any officer may be suspended until the disposition of the charges, when so preferred.

Penalty for failure to deliver to successor.

SECTION 6. All city or ward officers, at the expiration of their term of office, or upon their resignation, removal or vacation from office, shall immediately deliver to their successor in office all property, moneys, books, papers and effects of every description in their possession, belonging to the office they may have held. Any person who may have held an office, neglecting or refusing so to do, for twenty-four hours after the presentment, by his successor, of the city clerk's certificate of his successor's election or appointment and qualification to the office, shall forfeit and pay to the use of said city, for every twenty-four hours' refusal, the sum of one hundred dollars ($100), and all damages and costs incurred, either by the said city or his successor, by reason of such neglect or refusal.

Council to fix salaries.

SECTION 7. The common council shall, at its first meeting after the annual municipal election, or as soon as may be thereafter, by resolution, fix the salaries and compensation to be paid to such of the city officers and employes, elected or appointed under the provisions of this act, as are entitled thereto; provided, that no salary or compensation having been once fixed, shall be increased to any officer or employe during his term of [office] or employment, unless by the unanimous consent of all the members of the common council elect.

Salaried officers.

SECTION 8. The compensation to be paid to the city treasurer, city clerk, city attorney, sidewalk superintendent, superintendent of schools, health commissioner, superintendent of poor, shall be established and paid by annual or monthly salaries. All other officers, to whom any compensation is by this act provided to be paid, may be established and paid by the day, week, month or year.

May consolidate supt. of poor and purchasing agent.

SECTION 9. The common council shall, at any time, have the power and authority to consolidate the offices of superintendent of the poor and pur-

chasing agent; and require the duties pertaining to each office, to be performed by the same person, under such title and name as may be designated.

Council to count funds.

SECTION 10. Whenever any officer of said city has any moneys, or other securities or property in his hands belonging to the city, or to the office he holds, or shall make report of any such moneys or securities, or other property being in his possession, it is hereby made the duty, and express authority is hereby given the common council, or any committee appointed for that purpose, to actually count said moneys or personally examine such securities, or other property belonging to said city, or to any such office, for the purpose of ascertaining the correctness of any statement set forth in any such report, or for the protection of the interests of said city.

CHAPTER 4.

ELIGIBILITY TO OFFICE AND QUALIFICATIONS OF OFFICERS.

Residence of officers.

SECTION 1. No person shall be eligible to any office of said city unless he shall be a resident elector of said city, nor to any of the ward [offices] unless he be a resident elector and freeholder of the ward for which such officer is to be chosen, and otherwise qualified to perform the duties of the office to which he may be elected or appointed; and whenever any person, elected to any city office, shall remove from the city, or any ward officer shall remove from the ward, in which he holds office, he shall be deemed thereby to have vacated his office.

Oath of office.

SECTION 2. Every person elected or appointed to any office of said city, or the wards thereof, shall, before he enters upon the duties thereof, take and subscribe the oath of office prescribed by the constitution of the state, before some proper officer, and file the same with the city clerk, within ten days after notification of election.

Who to give bonds.

SECTION 3. The city clerk, city treasurer, chief of police, justices of the peace, constables, city attorney, sidewalk superintendent, superintendent of the poor, purchasing agent, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Fond du Lac, a bond, with at least two sufficient sureties,

which bond, shall contain such penal sum and such conditions as the common council shall prescribe. Such bonds, together with the affidavits of the sureties hereinafter provided, shall be filed with the city clerk and recorded in books, in his office for that purpose.

Condition of bonds.

Sufficiency of sureties, etc.

SECTION 4. The sufficiency of the sureties upon bonds, provided for in the next preceding section, may be determined by the affidavits of the sureties, severally taken, in which affidavits, it shall appear that said sureties, in the aggregate, are worth, in property, over and above all debts, exemptions and liabilities, the penal amount of such bond, or the common council may, in any other manner, aside from the affidavits of such sureties, determine their responsibility and sufficiency, and either accept or reject such sureties, or require other or additional sureties.

Council may require other bonds.

SECTION 5. The common council shall, at any and all times, have the power to require other or additional official bonds, and other or additional sureties thereon, at any time during the official term of any officer of said city.

Neglect to file bond.

SECTION 6. Every person elected or appointed to any office in said city, who shall neglect to take and file with the city clerk, his oath of office, as herein required, or neglect to file his official bond as provided by this act, or as may be required by the common council, within fifteen days after notification of election or appointment, such office shall be deemed vacant, and the vacancy shall be filled as provided in this act.

Officers incompetent as sureties.

SECTION 7. No city or ward officer shall be accepted as surety upon any bond, note or obligation made to the city.

Members of council not to hold other offices.

SECTION 8. No aldermen or member of the common council, while holding such office, shall be appointed to, or be competent to hold any office of which the compensation is paid by the city, nor shall he, or any other officer of the city, be interested, either directly or indirectly, in any contract, as principal or as partner with a principal, or as surety or otherwise, the expense or consideration whereof, or any part of the sum, is to be paid by the city.

Discharge or release from official bonds.

SECTION 9. No person who may have held a city or ward office, or shall have given an official bond to said city, nor any person who shall have signed such official bond as surety, shall be dis-

charged or released from liability on said bond, until such person who shall give such official bond, shall have secured from his successor in office, and filed the same with the city clerk, an acknowledgment in writing, stating the receipt in cash, of all moneys belonging to the city, as well as all other property of every nature belonging to, or in which the city may be interested, and all books, records, papers and documents belonging, or in anywise appertaining to the office which such person had held, and thereupon the common council may, if such receipt or acknowledgment be correct, grant to such person making application therefor, a release and discharge of himself and his sureties from his official bond; provided, that such release and discharge shall have no force or effect if said person, his successor in office, any surety or sureties, or any other person or persons, have made any misrepresentations, practiced any fraud or deceit in connection therewith.

CHAPTER 5.

ELECTIONS.

SECTION 1. The annual municipal election of said city, shall be held on the first Tuesday of April in each year, for which purpose one place in each ward shall be procured and designated as election polls, by the aldermen of the proper ward, and notice thereof shall be given by the said aldermen for at least ten days prior to said election, by publication in some newspaper printed in said city, and by posting the same in three conspicuous places in each ward, which notices shall be signed by the aldermen of the ward in which the same are to be posted, and shall designate the time and place where the polls will be opened. Municipal elections, when held. Notice of.

SECTION 2. The elections in said city, shall be held and conducted by inspectors and clerks, to be appointed as prescribed by the general laws of the state relating to elections, and shall have the same power and authority as therein prescribed. Manner of conducting.

SECTION 3. Every inhabitant, qualified by law to vote at a general election, and who shall have resided in the city for thirty days next prior thereto, shall be entitled to vote in the ward in which he resides, for all officers provided by this act to be so elected. Qualified electors.

Polls.

SECTION 4. The polls of election in each ward shall be kept open from nine o'clock in the morning until five o'clock in the evening, without intermission or adjournment; and when the polls shall have been closed, the inspectors, without adjourning, shall canvass the votes received at such polls, and make returns thereof, in writing, duly signed, stating therein the number of votes received for each person for a designated office, and the whole number of votes received, and such returns shall by them be delivered together, with the oaths of the inspectors and clerks, and the poll lists kept by them, to the city clerk, to be filed in his office within twenty-four hours after closing the polls.

Ballots.

SECTION 5. All elections shall be by ballot; a plurality of votes shall constitute an election; and the names of all officers voted for shall be upon one ballot.

General election laws, when applicable.

SECTION 6. Except as herein otherwise provided, so far as the same are applicable, all of the laws relating to general elections, as to the qualification of electors, the manner in which elections shall be conducted, the qualifications and appointment of inspectors and clerks of election, the making of poll lists and returns, and the punishment of illegal or fraudulent voting, or attempting to vote, and for fraudulent or illegal returns, and any other fraud or wrong designated under the general election laws, shall apply to [all] elections provided for by this act; provided, that the registry law shall not be applicable to elections herein provided for.

Registry law.

First meeting of council.

SECTION 7. On Thursday next after the election herein provided for in each year, at 7:30 o'clock P. M., the common council shall meet at the council rooms in said city, and the returns of the inspectors of the various wards shall be produced by the city clerk, whereupon the common council shall forthwith canvass said returns, and determine and declare, by the greater number of votes appearing by said returns to have been cast at said election, who are elected for each of the city and ward officers as were voted for, or any or either of them, and the council shall thereupon cause a report of such determination to be made and entered upon the minutes of said council. Within twenty-four hours after such determination, the city clerk shall cause certificates of elec-

Who shall canvass votes.

City clerk to notify persons elected.

tion to be served upon the persons so declared to be elected, personally, or by depositing the same, enclosed in an envelope, with the postage paid and properly directed; provided, that the city clerk shall at the same time certify to the clerk of the circuit court, the names of the persons so elected justices of the peace, constables, and all officers authorized to administer oaths and take acknowledgments of instruments in writing, and the terms for which they were respectively elected. Returns to be certified.

SECTION 8. When two or more candidates for an elective office, shall receive an equal number of votes for the same office, the election shall be determined by casting lots, in the presence of the common council, at such time and in such manner as said council may direct. In case of tie.

SECTION 9. Every justice of the peace and constable elected or appointed by virtue of this act, shall file such oath of office and bond necessary to qualify, before entering upon the discharge of the duties of such office, as is prescribed by the general statutes for such officers in the several towns. Oaths and bonds of justices and constables.

SECTION 10. Upon the filing the oath of office and the filing and approval by the common council of any bond by any officer of the city, as in this act required, the city clerk shall, upon demand, execute and deliver to the person so entitled, a certificate of his election and qualification to the office to which he has been elected or appointed. Certificate.

CHAPTER 6.

POWERS AND DUTIES OF THE COMMON COUNCIL.

SECTION 1. The municipal government of said corporation shall consist of a common council, composed of the mayor and the two senior aldermen from each ward. The common council shall annually meet on the first Monday after the annual municipal election, at 7 o'clock P. M., and at such other times, not less than once in each month, as it shall by resolution appoint. The mayor, or in his absence or inability to act, the president of the council, for any good reason, may call special meetings by notice to each of the members, to be served personally, or left at their usual place of abode. The common council, at any regular or special meeting, shall have power to adjourn the same to such time as it may deem proper. Who constitute the common council. Annual meeting. Special.

Mayor to preside.

SECTION 2. The mayor, when present, shall preside at all meetings of the common council, and in his absence or inability so to do, the president of the council shall preside. In the proceedings of the common council, each member present shall be entitled to a vote; provided, that the mayor shall be entitled to a vote, only in case of a tie vote by the members present, but no appropriations nor appointments to office, shall be made except by the vote of a majority of all the members elect.

Tie vote.

Council to determine rules.

SECTION 3. The common council shall determine the rules of its proceedings not inconsistent with any of the provisions of this act, and shall be the judges of the election and qualification of its own members. A majority of the members elect shall constitute a quorum for the transaction of business, and may compel the attendance of absent members, and in case of the refusal of absent members to attend for three successive meetings, the common council may declare the office of the member so refusing, vacant.

Quorum.

Ayes and noes

SECTION 4. If required by one member present at any meeting of the common council, the vote upon any ordinance, resolution or question pending before such meeting, except the appointment of officers, shall, when taken, be taken by the yeas and nays of all the members present, and a record of such votes shall be entered at large in the minutes of the council.

Further duties.

SECTION 5. The common council shall have the power, from time to time, to require other and further duties to be performed by any officer, whose duties are herein prescribed, and to prescribe the duties of such other officers as may be appointed, whose duties are not herein prescribed, and to fix the compensation, either elected or appointed.

Council to have charge of city property.

SECTION 6. The common council shall have the general control of all the property, both real and personal, belonging to the city.

Boards of health.

SECTION 7. The common council shall also have power at, and for such times as may be necessary, to organize a board of health, and to provide measures for the preservation of the health of the inhabitants of said city, and to prevent the spread of infectious or pestilential diseases therein. The board of health shall consist of the junior alderman of each ward, the mayor, who shall be its

president, and the health commissioner; each member of the board of health shall have such powers and perform such duties as the common council, by ordinance or otherwise, shall direct. The city clerk shall be *ex officio* clerk of the board of health. The common council may, by ordinance, authorize the board of health, or any member thereof, to make and enforce such orders, rules and regulations, not inconsistent with the charter or any ordinance of said city, as they shall deem most effectual for the preservation of the public health; but no order, rule or regulation of said board, imposing a penalty, shall take effect and be in force, until the same shall have been published in a newspaper published in said city, as required for the publication of ordinances. Until said board of health shall be appointed and organized, and during the time said board is not in existence, the health commissioner shall exercise and possess all of the powers of said board. Duties of.

SECTION 8. The common council shall have the power to continue, make, modify and repeal such ordinances, resolutions, regulations or by-laws as may be necessary to carry into full effect all the powers conferred upon it by this act. In every such ordinance, resolutions, regulations or by-law passed by said common council, it may impose such penalty for the violation thereof, or any part thereof, by fine not exceeding two hundred dollars ($200); and if not paid with the costs, by imprisonment in the county jail of Fond du Lac county, not exceeding six months, or by imprisonment in the police station or other place provided by the common council for the detention or imprisonment and punishment of persons committing offenses, not exceeding three months; and shall have the power by such ordinances, resolutions, regulations or by-laws and with such penalties aforesaid: How laws and ordinances to be passed. Penalties. Enforce by imprisonment.

1st. To preserve peace and good order, and to restrain and prevent vice, immorality, and every kind of fraudulent device and practice. Preserve peace.

2d. To restrain, prevent and suppress, houses of ill-fame, and all places of prostitution, and disorderly and gaming houses, billiard tables, and all instruments and devices for gaming, and to authorize the destruction and demolition of all instruments and devices, used for the purposes of gaming, and to punish the occupants and fre- Houses of ill-fame.

quenters of such houses and places, and to prohibit the occupation of any room, building, or any part thereof, within said city, for that purpose.

Vagrants, etc. 3d. To restrain and punish, vagrants, mendicants, street beggars, drunkards, and persons soliciting alms, keepers of houses of ill-fame, common prostitutes, bawds, and disorderly persons, and to prevent drunkenness, and disorderly, and immoral conduct, and obscenity in public places and streets, and to provide for arresting, removing, and punishing, any person, or persons, who may be guilty of the same.

Noise and disturbance. 4th. To prevent any riots, noises, or public disturbances, and all disorderly assemblies.

Intoxicating drinks. 5th. To license, prevent, or regulate, the sale and giving away, of ardent, spirituous wines, malt, fermented and intoxicating liquors, or drinks, within the city.

Taverns, etc. 6th. To license and regulate taverns, saloons, victualing houses, and all persons vending, or dealing in ardent, spirituous, wines, fermented, or intoxicating drinks of any kinds, including ale and beer, and prescribe the amount to be paid for such license, and the time when it shall expire, by limitation, or for a violation thereof; and to revoke any license at pleasure, and require as a condition of granting any license, such bond, and with such conditions, as the common council may direct; provided, that no license shall be granted, in violation of any general law of the state, nor shall the amount of license fixed in any case, be less than the amount required by the general law of the state, in like cases.

License fixed.

Drunkenness. 7th. To restrain drunkards, immoderate drinking, or obscenity of language, or conduct, in the streets, or public places of the city.

Prevent sale to persons designated. 8th. To prevent the sale or giving away of any spirituous, ardent, wines, fermented or intoxicating liquor or drink, including beer and ale, by persons having license for the sale of liquors; to any person whom the council may designate.

Slaughter houses. 9th. To prohibit or regulate the erection or continuance of slaughter houses in said city, and to cause the removal thereof.

Nauseous and unwholesome places. 10th. To compel the owner or occupant of any grocery, meat market, tallow chandler's shop, soap factory, tannery, stable, privy, sewer, drain or other unwholesome or nauseous house or place, to

cleanse, remove or abate the same as often as, and whenever the common council, health commissioner, or board of health, shall deem it necessary for the health, comfort or convenience of the inhabitants of the city, and for the prevention of disease.

Nuisances. 11th. To require the removal of any putrid or unwholesome meat, fish, hides or skins, or any decaying substance of any kind, by any person owning or occupying the premises on which the same may be found. and in case of his default to do so, within such time as may be prescribed by the council, to cause the removal thereof, and the expense thereof, shall be a lien upon the lot or premises upon which the same were found, to be enforced, as hereinafter provided.

12th. To prevent, restrain, remove and abate nuisances.

Rivers. 13th. To prevent any and all persons, from casting into the Fond du Lac river, or either branch thereof, within the limits of the city, or leaving upon the bank thereof, any offal, dead animals, filth or rubbish, and to punish any person or persons doing the same.

Excavations. 14th. To prevent the digging, excavating or making of holes or places below the natural surface of the ground, wherein stagnant water or other noxious or unwholesome matter may accumulate, and to cause the filling up, cleansing or purifying of any such holes or places, by any person who may have caused, made, or in any way assisted in making the same, and in case of the default in the filling up, cleansing or purifying thereof, within such time as may be prescribed by the common council, to cause the same to be so filled up, cleansed or purified, and the expense thereof shall be a lien upon the lot or premises upon which the same existed, to be enforced as hereinafter provided.

Carcasses. 15th. To prohibit any person from bringing or depositing within the limits of said city, the dead carcass of any horse or dog, or the putrid carcass of any animal, filth or rubbish, or any unwholesome thing.

Explosives. 16th. To prevent and prohibit the manufacture, keeping or storing of nitro-glycerine, and to regulate the keeping and storing of gunpowder, gun cotton, burning fluids, coal oils and other dangerous explosive materials, in said city, and to pro-

vide for the inspection of illuminating oils and fluids.

Fire-arms and fire crackers. 17th. To prohibit, restrain or regulate the discharge of fire-arms, and the explosion of gunpowder and guncotton, and the firing of firecrackers and fireworks of any kind within the city.

Lights in barns. 18th. To regulate the use of candles and lights, in barns, stables, shops and out-buildings.

Remove snow, dirt, etc. 19th. To compel all persons to remove the dirt, snow and ice from the sidewalk in front of the premises occupied or owned by them, and to keep the streets swept in front of such premises, and

Encumbering streets. to prevent the encumbering of the streets, sidewalks and crosswalks with carriages, wagons, carts, sleds, sleighs, wheelbarrows, boxes, wood, lumber, timber or other substances or materials whatsoever, and to prohibit excavating on streets, or the raising or lowering the surface of streets, crosswalks or sidewalks, above or below the established grade, or the interference in any manner with the established grade of streets, and to prohibit the raising of any portion of a sidewalk to a higher grade than the portion adjoining, unless with the consent of the common council, and to prohibit injury to sidewalks.

Unfastened horses. 20th. To prohibit the leaving of any horse, mule or team on any street without being securely fastened or hitched.

Awnings and signs. 21st. To regulate and control the erection of awnings and awning posts; to prevent the erection of signs and sign posts in the streets or over the sidewalks; and to provide for and compel the

Hitching posts. erection and maintenance of safe and convenient hitching posts, and places for fastening teams, at such point or points, as the council may deem necessary.

Dogs. 22d. To prevent and regulate the running at large [of] dogs, and to destroy them, and to impose a tax upon the owners or possessors of dogs.

Contagious diseases. 23d. To require, and cause the removal from thickly inhabited parts of the city, of all persons having contagious diseases.

Exhibitions. 24th. To prohibit, restrain and regulate, all exhibitions of natural or artificial curiosities, caravans of animals, theatrical shows or performances, circuses, and all other public exhibitions or performances for money, and to require, fix the amount, and provide for the collection of license

fees for any and all such public exhibitions or performances.

25th. To regulate, restrain and prohibit the ringing of bells and the crying of goods, wares and merchandise, or other commodities in the streets of said city. Ringing of bells.

26th. To impose and collect license fees, not exceeding the sum of two hundred dollars ($200) per annum of each auctioneer, and commissions on the sale of goods, wares, merchandise or other personal property by auction, and to punish any person acting as auctioneer without a license, or refusing to report sales by auction. Auctioneer.

27th. To regulate and restrain hawking and peddling in the streets. Peddlers, etc.

28th. To establish and regulate a market or markets in said city; to restrain and regulate the sale of fresh meats, fish and vegetables, and to select places for the sale of hay, wood, straw, grain, lumber, lime, and all other articles offered for sale from wagons, sleighs, or vehicles, and cause the same to be weighed, measured or inspected, and to establish and collect fees for such weighing, measuring or inspection, and to prohibit under penalties, the sales of all such articles at any other place or places. Markets, etc.

29th. To establish and regulate public pounds. Public pounds.

30th. To restrain and prohibit the running at large of cattle, horses, mules, sheep, swine, geese, and fowls in said city, and to cause such as may be found running at large, to be impounded, and to have a lien thereon for all fines, penalties, costs, poundage and damage done thereby, and to cause the same to be sold, to discharge the said liens, and to punish the owners of such animals and fowls found running at large. Restrain cattle.

31st. To prevent and punish horse racing, and immoderate driving, or riding in the streets or highways; to require all persons driving horses with sleighs or cutters in the streets of said city, to carry bells either upon the horses or other animals, to warn other persons using said streets, and prevent and punish persons playing any game or doing any act having a tendency to frighten horses, or annoy persons passing in, or along the streets or highways, or endanger property. Horse racing. Teams on streets.

32d. To compel railroad companies and other corporations and persons, to do all needful and proper draining, grading and filling upon the Railroads.

lands owned or occupied by them, within the limits of said city; to compel railroad companies to construct and keep in repair, suitable street crossings and carriage ways over their several tracks, and place flagmen at such street crossings, in said city as said council may designate; to regulate and restrain the speed of cars in passing through said city, and to prevent such cars from passing at a greater rate of speed than six miles per hour through said city, and to prevent the obstruction of streets, lanes and highways by the cars of said companies, and to regulate the putting up of all necessary signs to beware of the cars, at railroad and street crossings.

False weights. 33d. To prevent the use of false weights or measures.

Record of mortality. 34th. To direct and require the keeping of records of mortality by physicians, sextons and others, and to prevent all undertakers or other persons from burying any dead without a permit from the health commissioner.

Shade trees. 35th. To protect shade trees and direct and compel and regulate the planting, rearing and preservation of shade or ornamental trees in the streets and public grounds in said city.

Publication of ordinances. SECTION 9. Every ordinance or by-law imposing any penalty or forfeiture, for a violation of its provisions, shall, after the passage thereof, take effect at such time as the common council shall direct, and shall be published once in a weekly newspaper printed and published in said city, or may, if [so] directed by the common council, be published in a daily newspaper printed in said city, and in cases where the common council shall so direct, such by-laws and ordinances shall take effect from the day of the first publication thereof.

SECTION 10. The common council shall have authority, by ordinances, resolutions, or by-laws:

Manage finances. 1st. To manage and regulate the finances, and to regulate, preserve and dispose of the property, real and personal, belonging to the city.

Purchase of real estate. 2d. To purchase all such real estate, or other property, as may be required for the use of such city, for public uses; provided, the cost thereof shall not exceed the amounts previously limited therefor.

Levy taxes. 3d. To adopt all legal and requisite measures for levying taxes and assessments, general and special.

4th. To lay out, establish, open, extend, widen, straighten, improve, alter, close, vacate or abolish highways, streets, avenues, or alleys, in said city, or to authorize and empower any person, or corporation, so desiring, to build and maintain a street-railway, to be operated by horse-power, upon any of such streets, or highways, for a term of years, subject to such restrictions, as the common council may deem for the best interests of the city, and to grant the powers and franchises necessary therefor. Lay out streets. Street railways.

5th. To purchase and lay out public parks, or squares, or grounds, and improve the same. Parks.

6th. To provide for public lighting of said city, and for the lighting of all buildings owned, occupied, or used by said city, by gas, electric light, or other means. To make contracts with persons, or corporations, to supply, or furnish light, for such uses and purposes. To provide and maintain for said purposes, by purchase, lease, or otherwise machines, towers, posts, apparatus, lamps, or either, or any of them, and other materials and supplies, and if necessary for that purpose, to occupy and use such portion of any street, sidewalk, alley, or other property, on which to erect towers, poles, wires, or other apparatus, in connection with such public lighting. To provide, by lease, buildings, rooms, and the motive power for operating such machines and apparatus. To hire, or procure, necessary labor, or services, and to protect and preserve the public lamps, and any, or all of the property aforesaid, and to punish those injuring the same. Public lighting. Lease buildings for motive power.

7th. To establish, make, regulate, preserve, and protect public reservoirs, pumps, wells, hydrants and fountains in said city, supply them with water, and construct all necessary water works for such purposes, and for the general supply of the inhabitants, and to pay for the same, and to prevent the unnecessary waste of water therefrom, and regulate and control the use thereof. Fountains

8th. To establish, construct and build all necessary drains, sewers and gutters, and maintain the same. Sewers and drains.

9th. To fix up, widen, straighten, deepen, drain, dress, or otherwise improve or abate any and all sloughs, ravines, water courses, and wet places in the limits of said city. Water courses.

Rivers.

10th. To widen, deepen, straighten, dress, cleanse, fill up, or otherwise improve, either or both of the branches of the Fond du Lac river, and any or all the rivers, creeks, streams, ravines, or water courses in any part or parts of the same, within the limits of the city.

SECTION 11. The common council shall have power, by ordinance or resolution:

Fire limits.

1st. To create a fire district, or fire limits within said city, and from time to time alter and enlarge the same, and to prevent the erection of wooden and other combustible buildings or erections within such boundaries, and to prevent any material enlargement of any wooden or other combustible building, or erection, already within such boundaries, whether made under color of repairing the same or otherwise, and to ordain penalties to be incurred for each and every violation of such ordinance or resolution, and to provide, if the council see proper, that each day's labor, or part of a day's labor, on such erection or enlargement, after notice to cease, given by the mayor, any alderman, or by direction of the common council, shall be and constitute a separate violation of such ordinance or resolution.

Thickness of walls.

2d. To control and regulate the manner of erecting brick or stone walls, and the thickness of the same, and to prohibit or require the removal of any such as they may deem dangerous to the life, or injurious to property.

Razing buildings.

3d. To provide for the razing or demolition of any building or erection, which, by reason of fire or any other cause, may become dangerous to life or health, or may tend to extend a conflagration.

Removal from dangerous places.

4th. To prevent or require the removal of, and remove all persons from houses or premises which are dangerous to the health or lives of persons.

Filling up low places.

5th. To provide for the filling up of all wells, fountains, cisterns, reservoirs, and the stopping the flow of any water upon any lot or place which may be found to be unwholesome and dangerous to the health, or life of any person.

Power and right cumulative to enforce by injunction.

SECTION 12. The common council shall also have the power and right cumulative, to the remedy given in the last section, to bring suit in the name of the city of Fond du Lac against the owner, or occupant, or contractor violating such ordinance or resolution, as may be enacted under the provisions of the last section, or any or all

of them, to compel them, or either of them, by injunction, to refrain and desist therefrom. And a complaint, duly verified, showing a violation in fact, or a threatened violation of the provisions of any ordinance or resolution, passed or created and in force under the provisions of the preceding section, by the defendant or defendants in such complaint named, shall entitle the complainant to preliminary injunction, as of course.

Present fire limits.

SECTION 13. The fire district, or fire limits existing in said city, at the time of the passage of this act, with the ordinances and resolutions relating thereto, shall remain and be in force, until changed or abolished by the common council.

To preserve fire apparatus.

SECTION 14. The common council shall have power to procure fire engines and other apparatus for the extinguishment and prevention of fires, and have the charge and control of the same; and also, to purchase, lease, erect or provide secure places for the keeping of all fire apparatus and fixtures; also,

Prescribe duties of fire marshal, etc.

1st. To prescribe the duties of the fire marshal and all persons connected with the fire department, and to make rules and regulations for their government, and to impose reasonable fines and forfeitures for a violation of the same.

Firemen.

2d. To employ suitable persons to operate, manage and have the care of such engines and apparatus and property, and fix their compensation; and to purchase or hire teams or tackle for the use and operation of said engines and apparatus.

Care of engines.

3d. To provide for the management and protection of the fire engines, hose, hooks, ladders and all the apparatus and fixtures for the extinguishment and prevention of fires, belonging to the city.

Scuttles in roof.

4th. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs, and stairs or ladders leading to the same, and suitable fire escapes therefrom.

Ashes.

5th. To prevent the deposit of ashes in unsafe places, and to cause all buildings and enclosures, as may be in a dangerous state, to be put in a safe condition.

Chimneys, etc.

6th. To regulate and prevent the improper construction and unsafe conditions of chimneys, fire places, hearths, stoves, stove pipes, ovens, boilers and apparatus now in and about any buildings or

manufactory, and to cause the same to be removed or put in a safe condition.

Dangerous manufactories.

7th. To regulate and prevent the carrying on of manufactories dangerous in causing or promoting fires.

Suspicious persons at fires.

8th. To authorize the mayor, aldermen, police, firemen and other officers of the city to keep away from the vicinity of any fire, all idle and suspicious persons, and to compel all persons in said city to aid in the extinguishment of fires and the protection and preservation of property thereat.

Examination of places.

9th. To authorize and require any person appointed for that purpose to enter all buildings and enclosures at proper times, to ascertain whether the arrangements for fire, or the preservation of ashes are dangerous, and to cause such as are dangerous to be put into a safe condition.

Contract work to lowest bidder.

SECTION 15. The common council shall let by proposals to the lowest bidder and not otherwise, all contracts for services or work, and materials or supplies, and order payment for the same, except as is specifically otherwise provided by this act, and may, from time to time, require any officer to furnish reports, information or estimates and to perform other and further duties than herein prescribed, if the council shall deem that the interests of the city so require. The provisions of this section shall not apply to any purchase or contract made under subdivision 6, of section 10, of this act, except as to the leasing of the motive power for operating any machines or apparatus

Public lighting.

for lighting, and as to the purchase or contracts for the erection of towers, posts, lamps or other contrivances upon which lights are to be elevated or located. But no contract under the provisions of said subdivision 6, shall be made for the purchase, lease or use of any machines, towers, posts, lamps, engines or apparatus for lighting, without a condition in such contract, that the common council may, at its option, at any time within sixty days after the same are fully completed, and after the commencement of the use thereof, in actual lighting, reject such machines, towers, posts, lamps, engines or apparatus, and rescind such contract if not satisfactory to the common council. And no contract for the purchase of any such machines, towers, posts, lamps or apparatus shall be made, or if made, shall be of any

legal validity against the said city, without a condition therein, that no part of the purchase money therefor, shall be paid or be collectible until the vendor to, or contractor with the city, for such machines, towers, posts, lamps or apparatus, shall furnish the city a good and valid bond of indemnity in [a] penal sum of twice the purchase or contract price for such machines, towers, posts, lamps or apparatus, executed by, at least, three sufficient sureties, residents of this state, who shall justify thereon, in the form prescribed, for appeals to the supreme court, in an aggregate sum, of at least, twice the amount of the penal sum named in such bond and approved by the common council, to fully protect the city from all loss, damages, costs, expenses or interruptions in the use of such machines, towers, posts, lamps, or apparatus, occasioned by any suit in law or equity, against the city or its officers, agents, servants or employes, brought by any party who shall have a paramount or prior patent, interest or title which the use of such machines, towers, posts, lamps or apparatus, infringes; provided, that the provisions of this section shall not apply to the repairs to be made to any gas lamps or posts, which may have been erected or placed in position.

Exclusive right repealed.

SECTION 16. All private, local or general laws heretofore passed, granting to any individuals or corporations the exclusive right and authority to light the streets and public places of said city with gas, or other illuminating light, are hereby repealed, and the said common council shall in no way be restricted in procuring any and all kinds of light, from any and all persons with whom it may make contracts, according to the terms and conditions herein named.

Platting and recording lots.

SECTION 17. The common council shall have power, by ordinance or resolution, to cause all out and in lots within said city, of less size than ten acres each, that have not been platted and recorded by the owner or owners thereof, as required by law to be platted and recorded, and to tax the charges for the platting and recording thereof, against the lot or lots so platted and recorded, to be collected in the same manner as other special city assessments and taxes.

Surveying to be done.

SECTION 18. The common council may cause all streets, highways, alleys, lanes, side and cross-walks, culverts, drains, sewers, public places in the

said city, to be surveyed and described, and the established height of all grades of streets or sidewalks, to be recorded in books to be kept by the city clerk for that purpose, and to cause maps to be made and filed with the city clerk. Such records and maps, when so filed, shall be *prima facie* evidence of the facts therein described and portrayed, in all actions and places between the city and other persons, touching their location and the facts therein or thereon represented.

CHAPTER 7.

OFFICERS, THEIR DUTIES AND POWERS.

Duties of mayor.

SECTION 1. The mayor shall be the chief executive officer of the city. He shall see that all laws relating to the peace and good order of the city, as well as the ordinances of the city, are enforced, and shall exercise a constant supervision over all other officers of the city. He shall receive and examine into all complaints against all subordinate officers for misconduct, inefficiency or neglect of duty, and may, when the interests of the city are in danger of being impaired, summarily suspend such officer until the next meeting of the common council, at which time the mayor shall make report to the common council of his action in writing, setting forth all of the facts and circumstances in relation thereto, and the common council may dispose of the matter in the same manner as hereinbefore provided, for the removal of persons from office. He shall recommend from time to time to the common council, such measures as he shall deem expedient and necessary for the welfare of the city. He shall possess all the power and authority conferred upon mayors of cities, by the general law of this state. He shall have power, with force, if necessary, to suppress all tumults, riots, and unlawful assemblies, all revelling, quarrelling or other disorderly conduct, to the disturbance or annoyance of the peaceable inhabitants of the city. He shall have control, subject at all times to be restricted by the common council, of the chief of police and the entire police force of the city. He shall have power to admit to, or to discharge without bail, any and all persons arrested by the police force of the city, without warrant. He shall have power to administer oaths or affirmations, and to take and certify ac-

When may summarily suspend officers.

Suppress riots.

Control police.

knowledgments of deeds, or other instruments in writing authorized to be taken by the laws of this state. He may call special meetings of the common council, by order in writing, to be filed with the city clerk, and when such order is filed, it shall be the duty of the city clerk to serve, or cause to be served, on all of the members of the common council, a copy thereof, personally or by leaving the same at the place of residence, or business of each member to be served. He shall communicate to the common council, as soon as practicable after his election, and as often thereafter as he shall deem expedient, a general statement of the affairs of the city in relation to its finances, government and improvement. He shall possess all such other powers, and perform all such other duties as are incident to, and are necessary for the faithful discharge of his duties under this act.

Communicate state of city to.

SECTION 2. The president of the council shall possess all of the powers, and perform all of the duties, of the mayor, in his absence or inability to act. He shall be *ex officio*, president of the board of education, he shall attend all meetings of the board of education, and preside thereat, and may act as one of a committee, and participate in the deliberations of the board, but shall not be entitled to vote therein, except in case of a tie vote, when he may give the casting vote.

President of council, his duties.

SECTION 3. The city clerk shall attend all the meetings of the common council, and keep a correct record of its proceedings. He shall have custody of the corporate seal, and of all the papers and records of the city, that by provision of law, or by direction of the common council, are required to be kept in his office, or filed by him. He shall see that all ordinances, orders, resolutions, notices and other matters requiring publication, are promptly and correctly published in such paper as the council may have directed, and that due proof thereof be made and recorded, as in this chapter provided. He shall record all papers and proceedings required by any of the provisions of this act, to be recorded in his office. He shall be clerk of the board of education, and serve in the capacity of clerk of all such boards or committees as the common council may direct. He shall attest all orders drawn upon the treasury, and sign all licenses granted by the common

City clerk, his duties.

council, and keep correct records thereof, in books provided for that purpose, in such manner as may be designated by the common council. He shall keep a detailed account of the financial condition of the city; of the amounts expended through orders drawn upon the treasury; of all balances remaining unexpended; of the condition of any fund or separate appropriation for particular purposes; of the amounts received into the city treasury, as appears by reports of the treasurer, and all other facts desired by the common council, at any regular meeting, or at any other time. He shall do and perform any other or further act or service, in relation to any details in the matter of keeping books of account, records or proceedings, which the common council may, by ordinance or resolution, require. He shall make copies of the assessment roll of the city, as may be required by the law of the state or common council. He shall keep a record in detail of the bonded indebtednes of the city, in such manner as will show the amounts required to be paid each year for interest and principal, or to invest in a sinking fund. He shall, before the levy of any annual tax by the council, make report of all amounts in detail, which the city will be required to pay towards any indebtedness, and such facts and statements of past expenditures, as will enable the council to make proper estimates for tax levies. He shall keep a record of all the proceedings in matters relating to the condemnation of private property for public use, all proceedings in any improvement by which the expense, or any portion thereof, shall be chargeable to any real estate. He shall have power to administer oaths and affirmations, and may, when authorized by the common council, appoint a deputy city clerk, who, when so appointed, shall possess all the powers and authority of city clerk. The city clerk may, in addition to his salary, receive such fees for filing chattel mortgages and making certified copies of the same, or for any service in the connection with his office, not in this act specified, or hereafter required by the common council.

City treasurer, his duties.

SECTION 4. The city treasurer shall receive, and safely keep until lawfully paid out, all moneys belonging to the city, and keep accurate and detailed accounts thereof, with an accurate account of all disbursements, in such manner as the com-

mon council shall direct. He shall collect all licenses, duties, commissions and moneys due the city, all general and special taxes, and assessments, which may be lawfully charged, levied or assessed upon the real and personal property in this city, and chargeable therewith, and exercise the the same powers, and be subject to the same liabilities, as treasurer of towns, except when a special direction and duty is imposed by this act. He shall pay all orders drawn upon the treasury, by authority of the common council, or as may be required under any special provision of this act. He shall report to the common council, at the end of each month, the actual amount of money in the treasury, together with the amount of money received and paid out. He shall accompany such reports with all orders, redeemed and paid by him, which said account and orders, with any and all other vouchers held by him, shall be delivered over to the city clerk, and filed in his office, after the same shall have been examined by the common council. He shall, at the end of his official term, or oftener, as may be required by the common council, make a detailed report of all the transactions of his office, and at the end of his term of office shall thereupon deliver over to his successor in office, all money or property belonging to the city, as well as all books, records, papers, or documents in any way pertaining or belonging to the office. The treasurer shall, in addition to the duties herein enumerated, do and perform all the duties provided to be done and performed by him in any portion of this act.

City attorney, his duties.

SECTION 5. The city attorney shall conduct all the law business of the city, and of every branch thereof, and all other business in which the city shall be interested, and when requested by the common council, or the mayor of the city, shall furnish opinions in writing, upon any question submitted for his consideration. He shall keep an official record of all actions in courts, in which the city shall be a party, which shall show, in brief, every proceeding had in the case, and which shall always be open to the inspection of the mayor, or any committee of the common council. He shall, when required by the mayor or common council, draft all papers, connected with the business of city, all ordinances, resolutions, and notices required by the common council, and do

and perform in addition to the duties herein enumerated, all other duties elsewhere prescribed in this act.

Engineer and surveyor, their duties.

SECTION 6. The city engineer and surveyor, shall be a practical engineer and surveyor; he shall keep his office at some convenient place within the city, and the common council shall prescribe his duties by ordinance or resolution. All surveys, plans, profiles and estimates made by him for the city, shall be the property of the city, and shall be carefully preserved in the office of the clerk, and open to the inspection of all parties interested, and all books and papers pertaining to said office, shall be turned over by such officer, at the expiration of the term, to the common council, by deposit in the office of the clerk.

Supervisors, their duties.

SECTION 7. The supervisors elected by this act, shall be members of the county board of supervisors, and as such, shall have the powers of the chairman of the board of supervisors, in the several towns of this state, except as qualified by the provisions of this act, and in case of any vacancy, in either of the wards, in said office, the common council may supply the same by appointment, and the person so appointed, shall have all the powers, and discharge all the duties of the office of supervisor.

Justices of the peace, their duties.

SECTION 8. The justices of the peace elected under this act, shall have the same jurisdiction and perform all the duties of justices of the peace, as provided by the general laws of this state, and in addition thereto, may sentence persons convicted of any violation of the city laws or ordinances, who shall refuse to pay the judgment of the court therefor, to imprisonment in the police station or county jail, as in this act provided.

Assessors.

SECTION 9. The assessors elected under this act shall, in all things pertaining to their offices, be governed by the same laws as assessors under the general laws of this state, and their compensation shall be established by the common council.

Constables.

SECTION 10. The constables elected under this act shall have the same powers, and be subject to the same liabilities, as constables of the several towns of this state, and they shall qualify in like manner.

Aldermen, their duties.

SECTION 11. The aldermen of the wards shall be *ex-officio*, street commissioners in their respective wards They shall have a general supervision

of the streets and public ways, parks, sidewalks and drains in their respective wards, and shall from time to time, whenever it becomes necessary or expedient, make application to the common council for authority to have constructed, graded, improved and repaired, such streets, public ways, parks, sidewalks, drains, sewers and other public places, except as herein otherwise provided. They shall have the same powers and authority, in respect to the division and line fences between lots and lands in the city, as the fence viewers of towns, provided for by the general laws of this state.

Sidewalk superintendent, his powers and duties.

SECTION 12. The sidewalk superintendent shall make constant and careful inspection of the sidewalks, pavements, bridges, culverts, drains and other public ways and places, in all parts of the city, and whenever or wherever he shall find any defect or want of repair therein, he shall make an entry of the fact, together with the extent of such defect or want of repair, in a book for that purpose, and if it be such as is made chargeable to any real estate, to describe in such record the particular description of such real estate, and all other facts which may be necessary to describe the said defect, the particular location thereof, and how, and in what manner such defect or want of repair shall be remedied. If such defect or want of repair be found to exist in a sidewalk, and will not cost to exceed three dollars ($3.00) to remove or put in repair, he shall forthwith notify in writing, the owner or occupant of the premises adjacent, and to which said sidewalk shall belong, of the said defect or want of repair, and require in said notice, such owner or occupant, to repair or remove the same within twenty-four hours after service of said notice, and if such defect shall not, within said twenty-four hours be repaired or removed, the sidewalk superintendent shall forthwith make, or cause to be made, such repairs, or remove such defect, in as expeditious and economical a manner as may be, without any further notice or proceedings, and the costs and expense thereof, shall be and remain a lien until paid, upon the lot, part of lot or parcel of land in front of, or chargeable with the maintenance of said sidewalk, upon which the defect or want of repair existed. When the same shall be completed, he shall make a bill of the expense thereof, present it to said ad-

jacent owner or occupant, and receive and receipt the amount thereof, if paid. If not paid, or if such owner be a non-resident of the city, he shall immediately make such affidavits as is required by section 1, of chapter 14, and file the same with the city clerk, as therein provided. He shall keep a strict account of all moneys collected and paid out, all work done and materials furnished by him in the execution of his duties, and report the same at the first of each month, and file such report with the city clerk. He shall, at the same time, pay over to the city treasurer, all money which may be collected by him. If any defect or want of repair shall exist in a bridge, or any obstruction, accumulations of snow, ice, rubbish or dirt, which will impede, interrupt or prevent travel thereon, or tend to injure or impair said bridge, the cost and expense of which, will not exceed three dollars ($3.00), he shall cause the repair thereof, or removal of such obstructions, as soon possible, and make report thereof. If, in the opinion of said superintendent, the cost thereof shall exceed the sum of three dollars ($3.00), he shall report the same at once to the city clerk, and the common council shall at once provide for the repairing thereof, or removing such obstructions and accumulations. If any defect or want of repair shall exist in any street, or public way or place other than on sidewalks, he shall at once report the same to the chairman of the board of aldermen of the proper ward. If any sidewalk shall have thereon any accumulation of snow, ice, or any obstruction impeding the use thereof, by persons walking thereon, it shall be the duty of said superintendent to immediately order in writing, the owner or occupant of the premises in front of which said snow, ice or obstruction is found, to remove the same within such reasonable time as said superintendent may prescribe in such order. If the person so ordered shall fail or neglect to obey such order, the said superintendent shall immediately cause the same to be done, and make affidavit as is required by section 1, chapter 14, of this act, and file the same with the city clerk. In case any sidewalk, street, or any part thereof, or other public place in said city, is found by said superintendent to be dangerous to persons passing on or over the same, on foot or in vehicles, it shall be such duty of such superintendent to

cause such dangerous portion of such sidewalk, street or other public place, to be closed or guarded in such manner, as will prevent the use thereof for public purposes, until the same shall be caused to be repaired or rendered in a safe condition.

Chief of police and policemen.

SECTION 13. The chief of police and policemen shall perform such duties and possess such powers and authority, as is hereinafter provided, in the chapter relating to the police department.

Health commissioner.

SECTION 14. The health commissioner shall perform such duties and possess such power and authority as is hereinafter provided, in the chapter relating to the board of health.

Superintendent of schools.

SECTION 15. The superintendent of schools and school commissioners, shall perform such duties and possess such power and authority, as is hereinafter provided in the chapter, relating to the department of education.

Superintendent of poor.

SECTION 16. The superintendent of the poor, shall have the general superintendence of the poor in the city, and shall have such general powers and perform such duties as are provided by the general statutes of the state, to be had and performed, by town supervisors as officers of the poor. He shall have power to make contracts for such help and assistance to such poor people as may require the same, with any charitable institution in said city, and cause such amounts to be paid, from moneys provided for that purpose, as may be just and proper. He shall make report to the common council monthly, of the amounts expended for the relief or support of the poor, together with the names and residences, if known, of the persons receiving such relief or support. He shall, when acting as purchasing agent of the city, perform such duties as may be prescribed by the common council.

CHAPTER 8.

ORDINANCES AND RESOLUTIONS.

Approval of ordinances of mayor.

SECTION 1. Every ordinance or resolution of the common council (except in the special instances in this chapter provided) shall, before it takes effect, be presented, duly attested by the city clerk, to the mayor; if he approves it, he shall sign it, in which case it shall take effect immediately, unless otherwise provided for, in the ordinance or

resolution. But if the mayor do not approve it, he shall, within three days thereafter, file in the office of the city clerk his reason, in writing, stating why the same should not go into effect; in which case such resolution or ordinance shall not go into effect or have any legal operation, unless at the next regular meeting of the common council it shall be re-passed, by a vote of two-thirds of all the members elect, exclusive of the mayor; and if it be re-passed, or if the mayor omit to file his reasons aforesaid, it shall go into effect according to its terms; provided, no ordinance or resolution shall be in force, until it shall have received, at least, one publication in either a daily or weekly newspaper published in said city, and proof of such publication, by the affidavit of the foreman, printer or publisher of such newspaper, be filed with the city clerk; and the ordinance or resolution, and the proof of the publication thereof, be recorded in books provided for that purpose.

Publication of proof.

Evidence of passage and publication.

SECTION 2. The record of every ordinance or resolution, with the proof of the publication thereof, made as provided in the preceding section, and certified copies of such record, shall be received as evidence in any and all courts of this state, as proof of the proper passage and publication of such ordinance or resolution.

Present ordinances not in conflict, in force.

SECTION 3. All ordinances and resolutions now in force in said city, not conflicting with the provisions of this act, shall continue and remain in full force until repealed, changed, or otherwise altered by the common council.

CHAPTER 9.

PROCEDURE FOR VIOLATIONS OF ORDINANCES, LAWS, ETC.

Actions for penalties.

SECTION 1. The city of Fond du Lac may sue for and recover, any and all penalties, or forfeitures, under the charter of said city, or any amendment thereto, or the ordinances, by-laws, police, or health regulations, made in pursuance thereof, in the corporate name of said city of Fond du Lac, any general law of the state to the contrary notwithstanding, and such action shall be commenced by complaint, substantially in the following form:

Form of warrant.

STATE OF WISCONSIN, }
City and County of Fond du Lac. } ss

——— ———, being duly sworn, complains on oath, to ——— ———, that ——— ——— did, on

the ——— day of ———, 18—, violate the ——— section of an ordinance, by-law, or resolution (describing it by its title, and briefly setting forth the offense complained of), which said ——— is now in force, as this deponent verily believes, and prays that said ——— ——— may be arrested, and held to answer to the said city of Foud du Lac therefor.

Sworn and subscribed to before me this ——— day of ———, 18—. ——— ———.

Statements in complaint

It shall be sufficient to give the number of the section or sections, and the chapter, or title, of the ordinance, by-law, regulation, or resolutions, or of the law violated, in such complaint, briefly setting forth the offense complained of, and said complaint may be sworn to, before any officer authorized to administer oaths, in this state. Upon the filing of said complaint with the judge or justice having jurisdiction, a warrant shall issue thereon, substantially as follows:

Form of warrant.

STATE OF WISCONSIN, } ss.
City and County of Fond du Lac. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the chief of police, or any policeman of the city of Fond du Lac, greeting:

Whereas, ——— ——— has this day complained to me, in writing, on oath, that ——— did, on the ——— day of ———, 18—, violate the——— ——— section, or sections, of an ordinance, by-law, regulation, or law (describing it by its chapter, or title, and briefly setting forth the offense complained of), which said ——— is now in force and effect, as said complainant verily believes. Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of the said ——— ———, and him forthwith bring before ——— ———, to answer to said city of Fond du Lac, on the complaint aforesaid.

Given under my hand, this ——— day of ———, 18—. ——— ———.

Trial and proceedings.

The defendant in any such action, may be arrested upon service of the warrant or process by which the action is commenced. Upon the return of the warrant, the court may proceed summarily with the case, unless it be continued by consent or for cause, as in other cases provided by law. If

the cause be adjourned, the defendant, if required by the courts so to do, shall recognize with surety for his appearance, in such sum as the court shall direct; or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Fond du Lac county or to the city police station. The complaint made aforesaid, shall be the complaint in the action, and the plea of not guilty, shall put in issue all matters of defense in the action.

Printed charter and ordinances in evidence.

SECTION 2. A printed copy of an ordinance, by-law or resolution, passed by the common council, and published in a newspaper, or in pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and that the same is in force, and may be received in evidence. After issue joined and before trial, in all city cases, the defendant may demand a jury; and if no demand of a jury be made, it shall be deemed a waiver of a jury trial.

Witnesses and jurors to attend without fees advanced.

SECTION 3. Witnesses and jurors shall attend in all city prosecutions, without the payment of fees in advance, upon process of the court, duly served, and in default thereof, their attendance may be enforced by attachment. In case the jury, after being kept a reasonable time, should disagree, they shall be discharged, and thereupon the court shall adjourn the cause to a day certain, and issue a new venire as aforesaid.

Verdict or finding, relating thereto.

SECTION 4. In city prosecutions, the finding of the court or jury shall be, guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture, and where the same is not to exceed a certain sum, and not less than a certain other sum, shall fix the amount of such fine, penalty or forfeiture as he shall deem best, within the provisions of such ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and for the costs of suit. If not guilty, the costs, as in actions in justice's court, shall be taxed against the city, but no attorney's fees shall be taxed for, or against the defendant in any such suit, execution shall issue forthwith upon the rendition of the judgment, unless the same be stayed or appealed as hereinafter provided, and the fine or penalty imposed by the court, may be enforced and collected by levy and sale, on execution, of the property of

the defendant, as provided by law in civil actions before a justice of the peace.

Execution, what to require relating there to.

SECTION 5. The execution upon any judgment recovered in any such action, may require that in case nothing shall be found from which the amount can be collected, the defendant shall be taken and imprisoned in the jail of Fond du Lac county, for a term of not exceeding six months, or in the police station, not exceeding three months, unless the judgment be sooner paid, and the term of such imprisonment shall be inserted in the execution and commitment. And said execution and commitment may require the defendant to perform hard labor, during the term of such imprisonment. In case nothing be found from which the amount can be collected, the defendant shall be imprisoned in the jail of Fond du Lac county, or in the police station, according to the terms of the execution. Such execution may be in the following form:

Form of execution.

STATE OF WISCONSIN, } ss.
City and County of Fond du Lac, }

The state of Wisconsin, to the sheriff or any constable of said county of Fond du Lac, the chief of police or any policeman of said city, the keeper of the common jail of said county, or the keeper of the police station:

Whereas, the said city of Fond du Lac, on the ——— day of ———, 18—, recovered a judgment before the ——— ———, of said ———, against ——— ———, for the sum of ——— dollars ($—), together with ——— dollars ($—), costs of suit, for the violation of (here insert the number of section, chapter or title of the ordinance and offense, as set forth in the complaint). These are therefore, in the name of the state of Wisconsin, to command you to levy distress on the goods and chattels of the said ——— ———, (excepting such as the law exempts), and make sale thereof according to law in such case made and provided, to the amount of said sums, together with your fees, and twenty-five cents (25c) for the execution; and the same return to me within thirty days; to be rendered to the said ——— ———, for said judgment and costs, and for want of such goods and chattels whereon to levy, to take the body of the said ——— ———, and him convey and deliver unto the keeper of the common

jail of said county, or to the keeper of the police station of the city of Fond du Lac, who is hereby commanded to receive and keep the ——— ———, in safe custody, in said ———, and at hard labor for the term of ———, unless the aforesaid sum and all legal expenses, be sooner paid and satisfied, or until he be discharged thence, by due course of law.

Given under my hand, this ——— day of ———, 18—. ——— ———.

Fines when collected to be paid into the treasury.

SECTION 6. All penalties, forfeitures, fines or claims due to said city, when paid to the magistrate authorized to receive the same, shall be paid by him to the city treasurer, within one month after the receipt thereof, by him. Whenever execution shall be issued upon any judgment in favor of the city, the same shall be returned by the officer receiving the same, to the judge or justice who issued it, on or before the return day thereof, and if such officer neglect to return the same, for five days after the return day thereof, the judge or justice, shall report the fact to the city treasurer, who shall cause an action to be brought in the name of the city, against the officer and his sureties for the default.

Appeals, how taken.

SECTION 7. Appeals shall be allowed in all said cases to the county court, and taken in the same manner as appeals from justices of the peace. The defendant in all city prosecutions, may appeal to the county court of Fond du Lac county, by filing an affidavit and bond, and complying with the requirements of appeals in civil cases before justices of the peace; provided, however, that such appeal shall be taken and perfected within forty-eight hours from the time judgment is rendered in the suit. Upon any appeal being taken and allowed the judge or justices shall stay all further proceedings in the case, and the defendant, if in custody, shall be discharged, and the judge or justices shall transmit the papers in the case so appealed, with a transcript of his docket, to the county court, within the time and in the manner prescribed, in cases appealed from justices of the peace.

Officers fees to be paid by city when collected.

SECTION 8. The jail fees, and officer's fees, if any, for commitment on prosecution in behalf of the city, shall be audited and allowed by the common council, when the same cannot be collected of the defendant, before his discharge; and said

common council may by resolution direct the judge or justice, to discharge from the jail or police station any person confined for a judgment due said city, but such discharge shall not operate as a release of the judgment, unless said common council shall so direct in their resolution. Upon filing a certified copy of such resolution, attested by the city clerk, the judge or justice, shall order such defendant discharged from custody, and make an entry of such discharge on his docket; an execution may issue or be renewed by indorsement from time to time, before or after the return day thereof, and before or after the commitment, of the defendant, until the judgment is satisfied or released; but after the defendant shall have been once committed, no execution shall be issued against the body of the defendant in the same action.

CHAPTER 10.

FINANCES AND TAXATION.

Fiscal year.

SECTION 1. The fiscal year of the city of Fond du Lac, shall commence on the first Monday of April.

City funds to be with treasurer.

SECTION 2. All moneys, credits and demands belonging to the city of Fond du Lac, shall be kept by and deposited with the city treasurer, and be under control of the common council, and shall only be drawn upon orders signed by the mayor and city clerk, duly authorized by a vote of the common council, and in no other manner; provided, that the school fund may be drawn out, as provided by other provisions of this act, and all resolutions adopted by the common council authorizing the expenditure of moneys, shall appropriately specify the amount to be expended, and no extra or additional compensation shall be allowed or paid on any contract, or on account of any contract, or to any officer, contractor, person or persons, for any service or work done, or material furnished to, or for the city.

No debt to be made unless authorized.

SECTION 3. No debt shall be contracted against the city, or certificate of indebtedness be drawn upon the city treasury, unless the same shall be authorized by a majority of all the members elect of the common council, and the vote authorizing the same, shall be entered by ayes and nays, upon the journal of the common council, except in

such cases as may be specially provided for in this act.

Dues and licenses to be paid into the treasury.

SECTION 4. All forfeitures and penalties accruing to the city for violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses and insurance percentage, and from all other sources, for the city, shall be paid into the city treasury and become part of the general fund; and all moneys received for tuition of scholars under this act, shall be paid into the treasury and become part of the school fund.

Orders, how drawn.

SECTION 5. All orders drawn upon the treasury of the city, shall be made payable to the order of the person in whose favor they may be drawn, and shall be transferred only by indorsement. Each order shall specify upon its face the purpose for which it was drawn, and from which fund the same is to be drawn, and the same shall be payable out of the proper fund, and all such orders shall be received in payment of any municipal tax levied and assessed.

No interest on orders unless authorized.

SECTION 6. No interest shall be allowed or paid, on any city order or certificate of indebtedness, unless the same is expressly authorized by the common council, by a vote of a majority of all the members elect.

Authority to levy a tax.

SECTION 7. For the discharge of any legal debt of the city, or expenditure authorized by the common council, under any of the provisions of this act, or ordinance of the city, to defray the current expenses thereof, the common council shall have power, by ordinance or resolution:

Two and one-half per cent. for general fund.

1st. To annually levy a tax not exceeding two and one-half (2½) per cent. on the assessed value of all real and personal property in the city, made taxable by the laws of the state, to defray the contingent and other general expenses of the city, which tax shall belong to the "general fund."

Twelve mills for school fund.

2d. To annually levy a tax not exceeding twelve (12) mills on the dollar, on such assessed value aforesaid, to meet the expenses of purchasing grounds for school buildings, building and repairing of school houses, purchasing school apparatus and fixtures, and supporting and maintaining schools within the city, and which shall constitute the "school fund."

3d. To annually levy a tax, on such valuation

aforesaid, of not exceeding one (1) mill on the dollar, which shall constitute the "library fund." One mill for library fund.

4th. To annually levy and collect, a tax of one (1) per cent., on such valuation aforesaid, to pay the interest accruing on the general bonded indebtedness of the city, and to provide a sinking fund to pay the bonds of said city as they mature, and for compromising bonds heretofore issued, and which shall constitute the "bond fund." One per cent. for bond fund.

5th. To annually levy and collect a tax on such valuation aforesaid, not exceeding two (2) mills on the dollar, which constitute the "poor fund" Two mills for poor fund.

SECTION 8. All corporations, companies and associations, by their respective underwriters or agents, engaged in said city in effecting fire insurance, shall account and pay to the city treasurer, the two per cent. upon the amount of all premiums which shall have been received or agreed to be paid for insurance, at the times and in the manner and form prescribed or provided for, by section 1926, revised statutes. Insurance tax two per cent.

SECTION 9. Real estate exempt by the laws of this state from general taxation, shall be subject to special taxes for the building of streets, sewers, sidewalks, repairing and cleaning of sidewalks, removal of nuisances, and such other work and labor for which a special lien is given, and the making of local and general improvements, and all the property of the city shall be subject thereto; provided, that the property of the city shall be exempt from all taxation, except such special tax. All real estate liable to special taxes.

SECTION 10. The assessors of the city shall annually proceed to make an assessment roll, of all the real and personal property liable to taxation therein, keeping the property in each ward separate and distinct from every other, at the times, in the manner, and in all things conforming to the provisions of the general laws of the state, relating to the assessment and collection of taxes. Assessors to to make assessment roll annually.

SECTION 11. The common council of said city shall have power to provide, in the manner hereinafter prescribed, for a semi-annual collection of all taxes provided to be raised for municipal purposes which they are authorized to levy, by virtue of this act, except special certificates, delinquent taxes, and taxes levied upon lots, parts of lots or parcels of land upon which any unpaid taxes for Council has power to provide for the semi-annual collection of taxes.

a previous year or years, or part of a year, shall remain unpaid.

Extension of one-half of municipal taxes.

SECTION 12. All taxes, whether municipal, general or special taxes, shall be due and payable, as provided by the general statutes of this state, but the common council of said city shall have the power and authority to provide, and so embody said provision in the tax warrant to the annual tax roll, that any person, persons or corporations, except non-residents of said city, and persons removing therefrom before the 1st of February in each year, against whom or against whose property, whether real or personal, any tax shall be levied for municipal purposes, except for special tax certificates, who shall pay to the city treasurer of said city, one-half of the taxes so levied and assessed against such person, persons or corporation for municipal purposes of said city, and all state and county taxes, and all liens or assessments for special tax certificates, all taxes, tax certificates and prior assessments or liens for taxes, remaining unpaid or uncanceled on such property, if any such person, persons or corporations so paying aforesaid, on or before the 1st day of February in each year, shall be entitled to an extension of the time, for the payment of the remaining one-half of said municipal taxes, until the first day of August next ensuing, and the treasurer of said city shall be, and he is hereby authorized and empowered, to give receipts to any such person, persons or corporation, so paying as aforesaid, showing the amount so paid; provided, that all persons or corporations who shall pay, or cause to be paid, on or before the first day of February in each year, all taxes and tax liens, special certificates, or any tax or assessment chargeable to, or on any personal or real estate owned by them or either of them, shall be entitled to a discount of three per centum, on the one-half of the said municipal taxes, so provided to be extended.

Failure to pay taxes.

SECTION 13. If any person, persons or corporation shall fail or neglect to pay, or cause to be paid, one-half of the said municipal taxes so levied and assessed, and fail and neglect to comply with the provisions of the next preceding section, in the manner therein specified, or who shall fail and neglect to pay, or cause to be paid, any of said taxes described and set forth on the said tax roll, within the time specified by the laws of this state,

in which any tax can be paid, the sum shall be collected, and such proceedings had, as is provided by the laws of this state, for the collection of unpaid taxes upon real and personal property.

Powers of treasurer on failure to pay taxes.

SECTION 14. No provisions herein contained, shall be so construed as limiting or qualifying the right or authority of the city and county treasurer, to enforce the collection of all unpaid taxes upon both real and personal property, owned by persons who shall fail and neglect to pay, or cause to be paid, the one-half of the municipal taxes as aforesaid, and perform the conditions hereinbefore provided, in the manner prescribed in this chapter.

Failure to pay last half.

SECTION 15. Every person or corporation who shall be entitled to the privilege of an extension payment of one-half of the municipal taxes, as hereinbefore provided, and who shall have paid the said one-half on, or before the said first day of February, who shall fail or neglect to pay the remaining one-half of said municipal taxes, by the first day of August next thereafter, shall be liable to and shall pay, and the said city treasurer shall add to such taxes, ten per centum of the amount thereof as penalty for such non-payment, and if such taxes, together with said penalty, be not paid by the first day of September next thereafter, the said city clerk shall place the same, together with ten per centum aforesaid on the next general tax roll, in a separate column for that purpose, so that the amount of said tax, and said ten per centum shall be separately represented thereon as charged to the same person, or to the same property, as on the previous tax roll, and the same proceedings shall be thereafter had, as is provided by the general statute law of this state, for the collection of taxes.

Refunding outstanding bonds.

SECTION 16. The common council of the city of Fond du Lac is hereby authorized and empowered, by ordinance or resolution, to issue new bonds for readjusting the bonded indebtedness of said city, and retiring all or any portion of its present outstanding bonds, to an amount not exceeding the principal of the outstanding bonds so retired.

Form and condition of new bonds.

SECTION 17. The bonds issued under this act, shall be in such form, proper to carry out the conditions of the ordinances, or resolutions, under which they shall be issued, as the common council shall prescribe; shall be signed by the mayor

and city clerk, and sealed with the corporate seal; shall bear interest, at the rate of not to exceed six per centum per annum, payable annually, or semi-annually, as the common council shall prescribe; and be made payable, at some stated place, within the state of Wisconsin, in not to exceed twenty years from the date thereof; and shall bear date, and draw interest from the date of the retiring of said outstanding bond, or bonds.

New bonds limited to refunding purposes.

SECTION 18. Such new bonds shall not be issued for any purpose, excepting the special purpose of refunding the present bonded indebtedness of said city; and shall be sold for not less than their face value, and the proceeds shall only be used for the discharge of the principal of any of the outstanding bonds of the city, or they may be exchanged for the principal of any outstanding bonds of the city, at a par value of such new bonds, and in no case shall the bonded indebtedness of said city be increased by said exchange; nor shall any amount of bonds be sold, unless an equal amount of the principal of outstanding bonds shall then be payable, or offered for sale, exchange, or redemption, and be actually and simultaneously exchanged or redeemed.

Provisions of ordinances in relation to taxes therefor.

SECTION 19. Such ordinance, or resolution, shall provide for the collection of a direct annual tax, in addition to all other taxes, sufficient to pay the interest on such bonded debts as it falls due, and also to pay and discharge the principal thereof, at the time of the maturity of said bonds, respectively, and within twenty years from the time of contracting said bonded indebtedness; and every such tax shall be, after the issue of said bonds, irrepealable, and shall be annually levied and collected, and the money raised thereby shall be kept as a separate fund, irrevocably pledged to such purposes, and shall not be expended or appropriated for any other purpose.

Chapter 41, general statutes not applicable.

SECTION 20. None of the acts or proceedings, required, or provided for, in and by chapter 41, of the revised statutes of Wisconsin, and act, or acts, amendatory thereof, or by any other general law or laws of the state of Wisconsin, shall be necessary or applicable to the issuance, sale or exchange, or other conditions of the bonds herein provided for.

Bonds of city to issue for no other purpose.

SECTION 21. No bonds of said city shall be issued, in any event, for any other purpose what-

ever, except for the readjustment or refunding of the bonds of said city, now outstanding, or for readjusting or refunding such bonds as may be issued, in any such readjustment or refunding.

Financial condition of city to be annually published.

SECTION 22. The common council shall, at least ten days before the annual election in each year, cause to be published in one or more newspapers in said city, a full and correct statement of the receipts and expenditures from the date of the last annual report, together with the sources from whence the former are derived, and their mode of disbursement, and also a distinct statement of the whole amount assessed, received and expended for the same period, together with such other information as may be necessary to a full understanding of the financial concerns of the city.

CHAPTER 11.

IMPROVEMENTS OF STREETS AND HIGHWAYS.

Council, power over streets, etc.

SECTION 1. The common council shall have full control and power over, and management of all streets, alleys, lanes and public grounds in said city, and shall have power to accept, by order or resolution, any street, lane, highway or alley, and public grounds, which may be dedicated thereto, by plat or otherwise, and to establish the grades of all such streets, lanes, highways, alleys, or public grounds; and such acceptance shall, to all intents and purposes, make such street, lane, highway or alley a highway; and until the common council shall have accepted any street, highway or alley, as hereinbefore provided, which has not been improved by order of the common council, the city shall not be liable for any damages resulting from the unimproved condition of said street, lane, highway or alley; and shall have power to improve public squares or grounds, and to lay out, as hereinafter provided in this chapter, streets, alleys, lanes, highways, walks, and to alter, widen, contract, straighten and discontinue the same; provided, that the expense of the improvements herein above mentioned, shall be chargeable to, and payable as hereinafter mentioned in this chapter.

Damage for raising grade, relating to.

SECTION 2. In any case where the grade of any street or part of street has heretofore been, or shall hereafter be duly established, and the owner or

owners of any lot or lots fronting thereon, have made, or shall hereafter make, permanent improvements upon his, her or their said lots, conforming to such grade so established, and the grade of such street or part of street shall thereafter be changed by said common council, and worked to conform to such change, and damage to an amount exceeding one hundred dollars ($100) shall result therefrom to the owner of any such lot or lots, upon which permanent improvements shall have been made, conforming to the grade theretofore established, in every such case such owner, who shall not have signed the recommendation for such change in grade, and for re-grading required by section 3 of this chapter, shall be entitled to compensation for such actual damages as his said lot or lots may sustain, by reason of such change, beyond the benefits and advantage thereto derived therefrom, and the whole of such damage, if any, when ascertained as hereinafter specified, shall be a lien and charge upon the lots and parcels of land fronting on the entire length of such street, and shall be assessed therein, with the whole or the proportion of the other expenses of such re-grading, in the manner specified in this chapter, and collected therewith, and when collected, be paid to such owner. But no such damage shall be claimed by, or awarded to any such owner, unless he shall have notified said council, in writing, at its next regular meeting succeeding the one at which said recommendation shall have been presented, that he will claim damage, and shall specify the particular lot or lots upon which he shall claim the same. The damage to each several owner entitled thereto hereinunder, shall be determined in the first instance by the arbitrament, and award in writing, of three disinterested freeholders, resident of other wards of said city, than the one in which said street is located, who shall be appointed by the mayor, with the concurrence of said council, and who severally shall, before entering upon the discharge of their duty, take an oath, faithfully and fairly to discharge their duty, and a true award make. All of said arbitrators shall sit and hear the evidence and allegations of the parties in interest, and to that end are hereby empowered and authorized to administer oaths to witnesses. But an award signed by two of them shall be valid

and sufficient. Said arbitrators shall give due notice, by publication or otherwise, to the parties in interest, of the times and places of their meetings, and shall report the testimony taken by them, together with their award or awards, to the common council; and it shall cause the same to be filed with the clerk of said city; and said award or awards so made and filed shall be final and conclusive between all parties in interest, unless appealed from, as hereinafter specified. Any party in interest may appeal from any award so made, to the county court of Fond du Lac county, by notice in writing, served upon said city clerk, specifying the particular award appealed from, and signed by himself or his attorney; provided, said notice be given within twenty days from the time of filing said award; and, provided further, that the person or persons so appealing, shall, within twenty days, make and file with said clerk, an undertaking, with two or more sureties, to be approved by said council, to such person, and conditioned as said council shall direct, by order or ordinance upon the subject. Upon the filing of said bond, its approval, and the serving of said notice within the time aforesaid, said clerk shall thereupon transmit said notice, bond, report of testimony and award to said county court, or to the clerk thereof, and said court shall try the same as other actions at law, upon an issue to be formed under the direction of said court. No contract shall be made by said common council for the re-grading of any street or part of street, upon which damages shall be claimed, until all the damages so claimed shall be determined and finally fixed.

Power of council to cause streets to be graded.

SECTION 3. The common council shall have power to cause any street, highway, lane or alley, or any part of any street, highway, lane or alley in said city, to be graded, worked, graveled, macadamized, paved or repaved, planked or replanked and repaired, and to cause any sidewalks, crosswalks, drains, sewers or culverts to be made therein, as it shall deem necessary, and the same shall be repaired or relaid as may be ordered by said common council; provided, that such power may be delegated to the board of aldermen of the wards in which such work or improvements are to be done, or to any other officer or board appointed for that purpose. And it is further pro-

vided, that no street, highway, lane or alley, or any part thereof, outside of the sidewalks, shall be graded, macadamized, paved or repaved, planked or replanked, without a recommendation in writing, signed by a majority of the resident owners of property which is bounded by such street, highway, lane or alley, in which said work is proposed to be done or improvement made, except as hereinafter provided, which recommendation shall be entered at length by the clerk upon the record of the proceedings of the common council.

Council to determine kind of pavement.

SECTION 4. Whenever the common council shall determine to cause any street, highway, lane or alley, or any part of any street, highway, lane or alley in said city, to be paved or repaved, it may determine the kind of pavement that shall be used in such paving or repaving, and in case it shall determine to use any pavement that has been or may hereafter be patented, it shall have the power and is hereby authorized to purchase and procure of the person or persons owning the same, the right to use and lay such pavement upon such street, highway, lane or alley, or part thereof, and the sum or sums paid therefor shall be added to the expenses of such paving, or repaving, and be apportioned therewith and be paid for and collected in the manner provided in subdivision first, of section five of this chapter.

Specifications of proposed work to be made and filed, relating thereto.

SECTION 5. The common council, prior to ordering by resolution, ordinance or otherwise, any street, highway, lane or alley, or any part thereof, to be graded, macadamized, paved or repaved, planked or replanked, shall cause a plain and accurate specification of the proposed work to be prepared and filed in the office of the clerk of said city. If after the filing and examination of such specifications, said council shall be of opinion that such proposed work should be done, it shall order the same to be done, and shall fix the time within which the same shall be completed. The said council shall then cause to be published in some daily or weekly newspaper published in said city, such specifications, with a notice signed by the clerk, giving notice that on a certain day fixed in said notice, at least eight days after the first publication thereof, the common council will proceed to act in relation to the work mentioned in such specifications; and said notice shall specify

that sealed proposals for the performance of said work will be received by the city clerk, up to the time fixed in said notice for the opening of such proposals, and the time fixed by said council within which said work shall be completed. Upon the day mentioned in the above required notice, all such proposals shall be opened in the presence of the common council, when said common council shall determine which is the most favorable of such proposals, and may, by a vote of the majority of its members, accept such proposal, and authorize and direct the construction of the proposed work, and direct the expense thereof to be assessed, collected and paid as hereinafter specified and provided; provided, however, that the common council is hereby authorized to reject all of such proposals, as in its opinion, it shall deem unreasonable. The common council shall require the person or persons whose proposal or proposals may be accepted, to execute a bond, with one or more sureties, to be approved by said common council, and in such penalty as said council shall fix, conditioned that the person or persons whose proposal had been accepted, shall perform the work mentioned in such proposal within the time fixed by said council, and according to the published plan and specifications, subject to the supervision of the alderman of the ward in which such work is to be done, or of such person or persons, and to the approval of the common council, with such other conditions as said council may prescribe; and if said work shall not be completed within the time fixed by said council for the completion thereof, said council shall have the power to declare the contract for such work at an end, and said bond forfeited, and to proceed by action, in said name of the city, against the sureties therein, for the amount of such penalty.

In case of paving, macadamizing or grading.

1st. In case the work shall be the paving, macadamizing or graveling any street, highway, lane, or alley, or any part thereof, the common council shall appoint some competent person to ascertain the front length of each lot and parcel of land on both sides thereof, throughout its whole extent with a correct description thereof, and the name of the owner if known, and also the aggregate front length, of all lots and parcels of land fronting on such street. The said common council

shall then determine the expense of the whole work, including the surveying, specifications, advertising, ascertaining the value of existing improvements of the same or a similar kind and character, if any, and preparing the assessment lists, and cause the average expense upon each foot front of lots and parcels of lands on both sides of such street, highway, lane or alley, throughout its whole extent, excluding cross-streets from the computation, to be ascertained; and each lot or parcel of land on both sides of such street, highway, lane or alley, throughout its whole extent, shall be assessed with its proportion of one-third of the whole expense, to be ascertained by multiplying its number of feet front, by the average of said one-third of the whole expense per foot; provided, that when the owner or owners of any lot or lots, parcel or parcels of land, fronting any street, highway, lane or alley, upon which said improvement is proposed to be made, have already made any improvement on said street, highway, lane or alley, in front of his or her said lot or lots, parcel or parcels of land, of the same or of a similar kind and character, as the proposed improvement at the time when the same was made, and shall file with the city clerk, written notice thereof, before the assessment shall be made, stating when, where and by what owner the work was done, and the value thereof; the common council shall ascertain the value of such improvement, and for that purpose shall have power to subpœna witnesses, administer oaths, and take proofs in such manner as it may direct, and two-thirds of the value of such improvement, when so ascertained, shall be added to the expense of the proposed improvement, and assessed therewith upon all the lots fronting upon such highway, lane or alley, in the manner hereinafter specified; and when so assessed, a sum equal to two-thirds of the value of such improvement so made by such owner or owners, as aforesaid, shall be credited on the assessment of his or her said lot or lots, parcel or parcels of land, but the value of such improvement shall be so assessed as aforesaid but once; and in case the value of such improvements shall exceed the amount assessed upon such lot or lots, parcel or parcels of land, such excess shall be paid to such owner or owners who shall have made such improvements as

aforesaid; provided, that any such improvement hereafter so made by such owner or owners, shall not be assessed, credited or paid for, as hereinbefore provided, except the same shall have been made pursuant to a petition, or leave to do the same, by said owner or owners, signed by at least a majority of the resident owners upon such street, highway or alley, or such part thereof, as is proposed to be improved.

In case of grading, filling, etc.

2d. In case the work shall be the grading, filling, leveling, planking or curbing any street, highway, lane or alley, or any part thereof, the common council shall appoint some competent person to ascertain the aggregate front length of lots and parcels of land on both sides thereof, limited to the proposed improvement, and bounded thereon, and the front length of each lot or parcel of land bounded on such improvement, with a correct description thereof, and the name of the owner, if known. The said council shall then determine the expense of the whole work, including the surveying, if any, the specifications, advertising and preparing assessment lists, and cause the average expense upon each foot front, of lots and parcels of land on both sides of such street, highway, lane or alley within the limits of such improvement and bounded thereon, excluding cross streets from the computation to be ascertained, and each lot or parcel of land, shall be assessed with its proportion of the expense to be ascertained by multiplying its number of feet front, by the average expense per foot; provided, that whenever the owner or owners of any lot or lots, parcel or parcels of land, fronting any street, highway, lane or alley where such improvement is proposed to be made, and within the limits of said proposed improvements, and bounded thereon, have already made any improvement on such street, highway, lane or alley in front of his or her lot or lots, parcel or parcels of land, within the limits of said proposed improvement, and bounded thereon, of the same or of a similar kind and character, as the proposed improvement, said lot or lots, parcel or parcels of land so improved by such owner or owners, shall be excluded from the computation and assesment; and the whole expense of such improvement to be made, shall in such case be assessed upon the other lot or lots, parcel or parcels of land so fronting on the street, highway, lane or alley

where such improvement is proposed to be made, and within the limits and bounded on said improvement, as heretofore specified; otherwise on all the lots or parcels of land within the bounds of said improvement, in the manner hereinbefore specified.

Crosswalks, drains, etc.

3d. In case the work shall be the constructing of any crosswalk or drain, across any street, lane or highway, or public ground, or of any culvert in any street, alley, lane, highway or public ground, or the keeping in repair of crosswalks, drains, sewers, culverts, streets, highways, lanes or alleys, after the same have been constructed, graded, graveled, leveled, macadamized, planked or paved, as in this chapter provided, or the cleaning and cleansing of the same, the expense thereof, shall be paid from the city treasury, out of moneys raised for that purpose.

Sidewalks, etc.

4th. In case the work shall be the construction, repairing, relaying or replanking any sidewalk, or the repaving or paving of any surface drain or gutter in any street, alley or lane, each lot or parcel of land fronting thereon, shall be assessed with its just proportion of the whole expense of such work. The work specified in this subdivision may be ordered by the common council, on the written application of the sidewalk superintendent, or of either of the aldermen of the ward in which the proposed work is situated, at any regular meeting of said council, after filing with the clerk a specification of the work proposed. After said work shall have been ordered by said common council, the alderman of the proper ward, or sidewalk superintendent, shall give notice to the resident owner or owners of the several lots or parcels of land fronting thereon, requiring such owner or owners to perform the work proposed, in front of his or their respective lots or parcels of land, according to said specifications, within twenty days from the service of such notice, and in default thereof, that said work will be done by contract, without publication; and in case such owner or owners shall neglect to do said work within said twenty days, said alderman or sidewalk superintendent, shall proceed to have such work done by contract.

Main sewers, etc., relating thereto.

5th. In case the work shall be the construction of a main sewer, in any street or public place, or across private property, condemned for that pur-

pose, every lot, part of lot, or parcel of land, to be benefited thereby, shall be assessed with its just proportion of the expense thereof, according to the benefit so to be obtained, compared with the whole cost and expense thereof. The common council shall have authority to construct, or cause to be constructed, such sewers at any time the same may be deemed necessary, and the same proceedings shall be had in relation thereto, so far as the same are applicable, except as to the manner of assessing the expense of such improvement, as provided in so much of section 4, of this chapter, as is not included in the first four subdivisions thereof. In case it shall be necessary to take private property for public use, for the purposes of such sewer, or any part thereof, the same proceedings shall be in relation to such portion of such sewer, so far as the same are applicable, as provided in chapter 13, of this act. In case it shall not be necessary to take private property, as above mentioned, or in case private property shall be taken after the proceedings shall have been had, as above provided, the common council shall then determine the expense of the whole work, including surveying, specifications, advertising, and preparing the assessment lists, and cause the whole expense thereof, to be assessed and collected from all lots, parts of lots, or parcels of lands to be benefited thereby, and the said expense, when so assessed, shall be a lien upon such real estate, to be enforced and collected, as provided in the act for special tax certificates. The amounts for which the several lots, parts of lots, or parcels of land, shall be assessed as benefited by such improvement, and which the owners thereof shall be required to pay, shall be ascertained by three disinterested freeholders, of said city, to be appointed by the mayor, with the concurrence of said council, and who, severally, shall, before entering upon the discharge of their duty, take an oath, faithfully and fairly to discharge their duty and a true assessment make. All of said arbitrators shall, after due notice, by publication, or personal service, or both, to all parties interested, of the time and place of meeting, sit and hear the evidence and allegations of the parties in interest, and to that end, are hereby empowered, and authorized, to administer oaths to witnesses. They shall, when such assessment be made, re-file the

testimony taken by them, together with their assessment, with the city clerk. The common council shall, immediately, confirm such assessment, if the same be proper and just, and when so confirmed, the same shall be *prima facie* evidence of the regularity of all the proceedings, in which the same be made. The compensation of such assessors, as well as all the costs and expenses of such proceedings, and the improvement so provided for, shall be included in the whole amount so assessed against the several lots, parts of lots, or parcels of land, so benefited thereby; upon the confirmation of the council of the said assessment, like proceedings shall be had on the issuance of special tax certificates, and the collection thereof, and such certificates shall have the same effect, as provided by chapter 14, of this act.

Notice of proposals, publication of.

SECTION 6. The notice required by section 4 of this chapter, shall be first published at least eight days before the time therein specified, for opening and acting upon the proposals to be received under it; and in case the common council does not meet on the day mentioned in such notice, the proposals received by the clerk pursuant thereto, shall be opened at the next subsequent meeting of the common council. After opening proposals received pursuant to notice published according to said section, and determining whose is the most favorable, the common council may postpone further action upon the construction of the proposed work, and acceptance of the proposals, from time to time, not to exceed one month from the day specified in the notice, for opening the proposals.

Unreasonable proposals.

SECTION 7. Whenever the proposals received pursuant to such notice, are deemed by the common council to be unreasonable, it may make a contract for the work to be done, according to the published specifications, by such person or persons as it may think proper, at a specified price, which price shall not exceed the lowest sum proposed.

Expense of work, how paid.

SECTION 8. In case the work provided in this chapter to be done, shall be such as is mentioned in subdivision 1st, of section 4 thereof, one-third of the whole expense thereof, including all costs of proceedings in courts, publication, surveying, appraisements, assessments, collection of special tax certificates, material and labor shall be

assessed and taxed to, and be a lien upon the lots, parts of lots or parcels of land fronting or abutting on such street, alley, lane or highway, or such part thereof, upon which such paving, macadamizing or graveling shall be done, and the other two-thirds shall be paid by the city, out of money raised for that purpose. In case the work be such as mentioned in subdivision 2d, of section 4, the whole expense thereof, including all costs of proceedings in courts, publications, surveying, appraisements, assessments, collection of special tax certificates, and work and material, shall be assessed and taxed to, and be a lien upon the lots, parts of lots or parcels of land, fronting or abutting on such street, alley, lane or highway, or such part thereof, upon which the improvement mentioned in said subdivision, shall be done. In case the work be such as mentioned in other subdivisions of said section, to be paid for as therein specified; provided, that the common council shall have the power and authority, without the necessity of any petitions or other proceeding, except a two-thirds vote of all the members elect, authorizing the same, to gravel the following streets or portion thereof, and cause to be paid the whole expense thereof, from the city treasury, from moneys raised for that purpose to-wit: Fourth street, from Everette street east to the city limits; Division street, from De Nevue creek east to the city limits; Scott street, from the Fond du Lac river west to the city limits; Eleventh street, from Ellis to Main; Military street, from Western avenue to Superior street; First street, from Brook street west to the city limits; Johnson street and Rosendale avenue, from Brook street west to city limits.

Contractors taking special assessments.

SECTION 9. Any person taking contracts with the city, and who agrees to be paid in part, or in whole, from special assessments, according to the nature of the work contracted to be done, shall have no claim upon the city in any court, over and above the proportion, if any, which may be chargeable to the city, and payable out of any of the funds thereof, except from the collection of special tax certificates issued against lots, parts of lots or parcels of land, for the work, or proportion of the work so done; and no work to be paid for in part by special tax certificates, shall be let

except to a contractor or contractors, who will so stipulate and agree.

Assessment of special liens.

SECTION 10. Whenever any work shall be done or completed by virtue of this chapter, and the whole, or any portion of the expense thereof, shall be a lien upon, or chargeable to any lot, part of lot or parcel of land, or liable to any assessment by virtue of this chapter, when no other provision is therein made, the alderman of the ward in which such work shall be done, or any three persons, residents of the city, such as the common council may appoint, who shall not be interested in said work or the property chargeable therewith, shall make such assessment, which, when completed, shall represent in detail, the cost of such improvement, the description in detail, the lots, parts of lots or parcels of land chargeable with the whole, or a proportion of the expense of the improvement, the owners of such lots, parts of lots or parcels of land, the amount which is herein provided shall be paid by the city, if it shall be an improvement, a portion of which it is herein provided the city shall pay, and such other details and facts as may be necessary; and such assessment shall have attached thereto an affidavit, signed by the said persons so making the same, of its correctness, and when so made, the same shall be filed with the city clerk.

Filing with city clerk, plans, etc.

SECTION 11. No plan of any sidewalk, crosswalk, paving or planking, need be published under said section 4 of this chapter, and when a plan of any work is required, it shall be sufficient publication thereof, to file the same with the clerk, and refer thereto intelligibly, in the published notice.

Separate works may be in one notice.

SECTION 12. When practicable, several separate works may, by notice, be ordered, and assessments made at the same time, and all the expenses of advertising and assessment be considered as one work. When such expenses are paid in common by more than one work, each work shall be assessed with its just proportion thereof.

Resident owners refusing, council to compel dangerous street to be repaired.

SECTION 13. Whenever it shall appear to the common council, by affidavit or petition duly verified, and the safety of the public require that any street, highway, lane or alley, or any part thereof, in said city, should be graded, graveled, macadamized, paved, repaved, planked or replanked, and that a majority of the resident owners of property bounded by such street, highway,

lane or alley refuse to sign the recommendation mentioned in section 4 of this chapter, the common council shall have power to appoint a committee, consisting of one alderman from each ward of said city, to make an examination of such street, highway, lane or alley mentioned in such petition, and to report to the common council the condition of such street, highway, lane or alley, and whether in their opinion the same should be graded, macadamized, graveled, paved or repaved, planked or replanked, and upon receiving the report of such committee, the said common council shall have the power to order such street, highway, lane or alley to be graded, macadamized, graveled, paved or repaved, planked or replanked, in the same manner, and with the same effect, as though a recommendation, signed as required by said section 23, had been presented to said council.

Council may order repairs in streets.

SECTION 14. The common council may order the repair, cleaning and cleansing of any street, alley, lane, highway, sidewalk, crosswalk, drain, culvert or sewer, when it shall be necessary; and when, in its opinion, its repairs cannot be judiciously let upon contract when the same shall be completed, cause the expense thereof to be paid out of the moneys in the city treasury raised for that purpose.

Removal of ice and snow to be lien on the lots.

SECTION 15. The cost and expense of removing snow, ice, obstruction or any other matter or thing which will obstruct or impede persons in the use of said walks, for walking thereon, shall be a lien upon the lot or lots, parts of lots or parcel of land upon the site of which, or in front of which, said sidewalk is built or laid, or which said walk belongs.

CHAPTER 12.

VACATING STREETS AND PUBLIC GROUNDS.

Petition of two-thirds of owners.

SECTION 1. The common council may discontinue or vacate any street, alley, lane, highway or public square in said city, by a vote of two-thirds of the members elect of said council, upon the petition of two-thirds of the owners of lots abutting on any such street, alley, lane or highway in the manner hereinafter prescribed.

Petition and bond.

SECTION 2. Whenever any such petition, signed as in the last section provided, shall be presented to the common council, accompanied by a bond to

the city with good and sufficient surety, to be approved by the mayor, conditioned to pay all the expenses attendant upon the proceedings incident to the vacating of streets, and to indemnify and save the city harmless of, and from all costs, expenses and damages incident to, or which may grow out of the proceedings sought to be instituted by such petition, the council may consider the same, and if by a vote of two-thirds of the members elect, it shall declare that the prayer of the petitioners ought to be granted, then it shall be the duty of the city attorney to publish in the official newspaper printed in the said city, a notice specifying that a petition has been filed with the common council, praying the vacation or discontinuance of such street, alley, lane or highway in said city, specifying which, or if only a part thereof, specifying what part, and that the common council has declared such vacation or discontinuance was expedient, and that the owners of property and all others interested have until a day in such notice named, not exceeding ten days from the date thereof, in which to file claims for damages or compensation growing out of the proposed vacation or discontinuances, if granted, with the city clerk.

If no claims for damages are filed.

SECTION 3. The notice required in the last section, shall receive at least two publications before the day limiting the time for filing claims, and if, at the expiration of the time so fixed, no claims for damages or compensation shall have been filed, on proof of the publication of the notice aforesaid, the common council, by an order in writing entered in the minutes, by vote of two-thirds of the members elect as aforesaid, may vacate or discontinue such street, alley, lane, highway, or any part thereof, as prayed; and the failure to file any claim for damages or compensation by any person or persons, shall be in all courts and places, a waiver on the part of such person or persons of any such claim.

Claims for damages.

SECTION 4. If any claim shall be filed, it shall then be the duty of the city attorney to file the petition, and a copy of the minutes of the action of the common council therein, certified by the city clerk, and also the claims for damages filed with the city clerk, in the county court of Fond du Lac county, and give notice in writing to the persons filing such claims, that on some day in

the notice mentioned, not less than three days from the date thereof, application will be made to the judge of said court for the appointment of three commissioners to hear, try and determine the claim or claims, and fix and assess the amount of damages and compensation, if any, that any and every claimant is entitled to receive, and apportion the same upon the property to be benefited by reason of the vacation or discontinuance. And all proceedings thereafter shall conform to and be governed by, the provisions of chapter eleven of this act, so far as the same relates to the appointment of persons to assess damages and benefits, and proceedings thereafter to the final confirmation of the assessment, and the proceedings to collect the same, all inclusive.

Damages, when paid.

SECTION 5. It shall be the duty of the common council to pay or cause to be paid to the parties claiming such damages and compensation, as shall be awarded by the said persons as confirmed, within ninety days, after the order of final confirmation, and immediately thereafter by "an order in writing," passed by the vote of two-thirds of the members elect of said common council, may vacate or discontinue such street, alley, lane or highway, or any part thereof, as prayed.

Recording order.

SECTION 6. The order of the common council, vacating or discontinuing any street, alley, lane or highway or any part thereof, may be recorded in the office of the register of deeds of Fond du Lac county, and shall have the same force and effect, as a release of title or a quit-claim deed from the city of Fond du Lac.

Costs and expenses.

SECTION 7. The costs and expenses of this proceeding shall be paid in the first instance out of the city treasury; but if the same is not re-imbursed to the city of Fond du Lac, within thirty days after payment, it shall be deemed a breach of the condition of the bond, and an action will lie on behalf of the city against the obligees, until full indemnity is obtained.

Not to apply to certain public squares.

SECTION 8. None of the provisions of the preceding sections of this chapter shall apply in the vacation of the public squares, hereinafter mentioned, but the provisions of section 9 of this chapter, shall be the only provision applicable thereto.

Vacation of squares in certain blocks.

SECTION 9. Upon a petition signed by two-thirds of the resident owners of all lots, parts of

lots and parcels of land, upon which any public square fronts or adjoins within the original plat of the town of Fond du Lac, as recorded August 23, 1836, of transcribed records from Brown county to Fond du Lac county, on pages 55, 56 and 57, in the register office of Fond du Lac county, and which petitions must show all of the lots to be affected thereby, the common council of said city may, after one month's publication of a notice of the intention so to vacate such public square or squares, in such newspaper printed in said city as the common council may designate, proceed to vacate such public squares by a resolution adopted by two-thirds of all the members elect of said common council, and thereafter the city of Fond du Lac shall be absolved from the trust, duty, and obligation created by the act of recording said plat, and all the rights heretofore created in favor of said city therein, shall vest in the owners of the lots, or parts of lots, fronting on said squares, subject to the rights of way for streets and alleys, as now laid down on said plat. The resolution hereinbefore provided, shall specify the size and extent of the public square which may thereby be vacated, each and every owner in whom the rights of the city to said squares shall rest, and the extent thereof. A certified copy made by the city clerk shall be entitled to be recorded in the office of the register of deeds of said county. No other or further proceedings on the part of said common council, than herein above mentioned, shall be necessary to render an effectual vacation of said public squares.

CHAPTER 13.

TAKING PRIVATE PROPERTY FOR PUBLIC USE.

Notice of intention to be published.

SECTION 1. Whenever the common council shall intend to lay out, alter or widen any street, highway, lane, alley or public square or ground, it shall cause a notice of such intention to be published, for at least eight days in some daily or weekly newspaper, printed and published in said city, stating the day upon which it will act thereupon, which day shall be at least eight days subsequent to the first publication of the notice.

If no property is to be taken.

SECTION 2. In case it shall not be necessary to appropriate, for the purposes contemplated in section 1, of this chapter, any real estate which shall

not belong to the city, or which shall not be given to the city for the purpose, the common council, upon the day fixed in the notice, may proceed to lay out, alter or widen such street, highway, lane, alley or public square or ground mentioned in the notice.

Taking property, proceedings.

SECTION 3. In case it shall be necessary to appropriate for any street, highway, lane, alley or public square or ground, any real estate not belonging to the city, or which the city may not be permitted by the owner, freely to appropriate, the common council, before it shall determine to make such improvement, shall make an order appointing some discreet person, or directing some officer of said city, to ascertain and report a description of the real estate required to be appropriated, with the names of the owners; what the whole expense of the improvement would amount to; whether any, and if any, what part thereof ought to be borne by the city; and whether any, and if any, what real estate would be immediately benefited by the improvement requiring the appropriation of such real estate, specifying the same in parcels described with certainty, with the names of the owners, if they can be ascertained. It shall cause a notice to be published in some weekly or daily newspaper published in said city, for three weeks, specifying the proposed improvement, the estimated expense thereof, and the real estate in said city to be assessed therefor, and shall require all persons interested in the subject matter of such improvement to attend the common council, or a committee thereof, appointed for that purpose, at a time and place, in such notice to be specified. At the time and place so stated, the common council shall proceed to hear the allegations of the owners and occupants of the houses, lots and parcels of land required, and the real estate to be assessed for such improvement so specified as aforesaid, and after hearing the same shall make such further order in respect to such improvement, as it shall deem proper.

Proceedings on report of commissioner.

SECTION 4. If the common council shall, after hearing the parties interested, or after the report of such committee as aforesaid, determine to make any of the improvements in this chapter specified, and that the lands of any person will be necessary for the purpose, it shall enter in its minutes a resolution, declaring such determina-

tion, and containing a brief description of the lands so deemed necessary, and also of the real estate deemed benefited by such improvement. The common council may purchase the land so deemed necessary, of the owner or owners thereof, upon such terms, and for such compensation as it shall judge reasonable, and thereupon receive a conveyance thereof to the city, and thereupon proceed as provided in this chapter, to cause the price paid for such land, except such portion thereof, if any, as the common council shall have determined, ought to be borne by the city, to be assessed upon, and collected out of the real estate benefited thereby, as described in the report of the person appointed by the common council, or officer mentioned in section 3, of this chapter, as nearly as may be, in proportion to the amount of benefit which each shall be deemed to receive from said improvement.

In case no purchase can be made.

SECTION 5. In case no agreement for such purchase can be made, the common council shall, by resolution, declare their purpose to take the same, and therein describe, by metes and bounds, or otherwise, definitely, the location of the proposed improvement, and the land proposed to be taken therefor, defining separately each parcel, and the amount thereof, owned by a distinct owner, mentioning the names of the owners, or occupants, so far as known, and therein fix a day, hour and place, when and where it will apply to the county judge, or a justice of the peace, resident in said city, for a jury to condemn and appraise the same. The common council shall immediately cause such resolution to be published in some daily or weekly newspaper, published in said city.

Notice of application for jury.

SECTION 6. The common council shall thereupon, cause to be made, by the clerk, a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested, that the city will, at the time and place named, apply to the judge, or justice named, for the appointment of a jury, to condemn and appraise such lands. A copy of such notice shall be served by the chief of police, or any policeman, on the owner of each such parcel of land to be taken, if known, and resident within the county; such service to be made in the manner prescribed for serving a summons in an action in the circuit court, and the return of the officer shall be conclusive evi-

dence of the facts stated therein. If the notice cannot be so given as to all the parcels, then the same shall be also published, once in each week, for three successive weeks, in a newspaper published in said city, and the affidavit of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such notice shall be served, and the first publication made three weeks before the time fixed therein for such application. If any any person so served with notice be a minor, or of unsound mind, the judge or justice, before proceeding, shall, on the day fixed for the hearing of such application, appoint for him a guardian for the purposes of such proceeding, who shall give security to the satisfaction of the magistrate, if required, and act for such ward.

Jury, how drawn.

SECTION 7. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and a survey of such proposed improvements, and by proof of service of the notice, as provided in the last section, shall be filed with the judge or justice, who shall thereupon make a list of twenty-four competent jurors not interested; but residents of the city shall not be disqualified. He shall hear and decide any challenges for cause or favor made to any one, and if sustained shall replace his name with an unobjectionable juror, until the list shall be perfected. Thereupon, under direction of such magistrate, each party, the common council by its representatives on the one side, and the owners of land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the judge or justice, on the other, shall challenge six names, one at a time, alternately, the common council beginning. To the twelve jurors remaining such judge or justice shall issue a precept, requiring them at an hour on a day named, not more than ten, nor less than three days thereafter, to appear before him, to be sworn and serve as a jury to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the chief of police or any policeman of said city, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy at his usual place

of abode, in the presence of a member of his family.

Meeting of jury. SECTION 8. The jurors summoned shall appear at the time and place named, and if any be excused by the judge or justice, or fail to attend, he shall direct other disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The magistrate shall then administer to them an oath, that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

Jury to view lands. SECTION 9. Under the direction of such magistrate, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party, and for such purpose, such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate, unanimous verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands, or any part thereof, for such purposes, describing such as they find necessary to be taken; and if any be found necessary to be taken, then a separate verdict of appraisement of damages, specifying therein the damages of each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each, by reason of the taking thereof, in estimating which they shall deduct therefrom, any special benefit, if any, to be enjoyed by each from such improvement, and a majority of such jury may render such verdict or appraisement of damages, and shall sign the same. Any technical error in such verdict may be immediately corrected with the assent of the jury, and they shall be thereupon discharged, and their verdict filed with the magistrate. In case the jury shall fail to find a verdict, another jury shall be selected, summoned, sworn and proceed in the same manner. The said jurors shall be entitled to the sum of one dollar and fifty cents ($1.50) each, as their compensation, for each day actually and necessarily spent by them as jurors.

Appeal from verdict. SECTION 10. Within ten days after such verdict, any land owner whose land has been found

necessary to be taken, may appeal from the award of damages to him in such verdict, to the county court, and said city may likewise appeal from the award of damages to any owner, by filing with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and, if a part, what part, and therewith an undertaking with two sufficient sureties, to be approved by the magistrate, to pay all costs that may be awarded against such appellant on the appeal, and paying the magistrate for his return thereof. Any party not so appealing shall be forever concluded by such verdict or appraisement. Upon an appeal being taken the magistrate shall transmit to the county court, within ten days, the notice of appeal and undertaking, and thereto annex a copy of all the papers and proceedings before him, with his certificate thereof. The clerk of said court shall, after the time for the appealing has expired, file with the city clerk all the original papers, including the verdict, with his certificate thereof, stating in such certificate, whether or not any appeal has been taken from such verdict.

Appeal to be entered as action.

SECTION 11. Upon filing such transcript in the county court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to a change of place of trial and appeal to the supreme court. The appeal shall be tried by a jury, unless waived, and the costs shall be awarded against the appellant, if a more favorable verdict be not obtained; otherwise, against the respondent. Upon entry of judgment the clerk of the county court shall transmit a certified copy thereof, to the city clerk. The costs of said proceedings shall be paid by the city, except when it recovers costs in the county court.

Proceedings after determination of appeal.

SECTION 12. Within thirty days after the rendition of such verdict, or after the final determination of any appeal, if any shall be taken as herein provided, the common council shall cause an order to be entered in its proceedings, authorizing and directing the appropriation of the said real estate and the making of said improvement. The common council shall thereupon appoint three respectable freeholders of said city, not interested in any of the real estate to be taken or

assessed therefor, nor of kin to any person or persons interested therein, who shall proceed to apportion and assess the whole amount of such damage and value so reported by the jury, together with all the costs and expenses of such improvements (except such portion thereof, if any, as the common council shall have determined ought to be borne by the city) if any, upon the real estate benefited thereby, as described in the report of the person appointed by the common council, or officer mentioned in section 3, of this chapter, as nearly as may be, in proportion to the amount of benefit which each shall be deemed to receive from the said improvement. The said freeholders shall be sworn by some person competent to administer oaths, faithfully and impartially to discharge their duties according to the best of their ability. The said freeholders shall examine the said lands, deemed necessary to be taken for such improvement, and the lands and real estate deemed to be benefited thereby, and may hear the statements of the parties interested, and shall make their assessment. The said freeholders shall, as speedily as may be, make their report and file the same with the city clerk in the form of an assessment list, in which they shall specify and set down in separate columns, an accurate description of each parcel of real estate assessed, the name of the owner or occupant, if known, the amount assessed upon each parcel, the amount of compensation, if any, to which each owner or occupant is entitled by the verdict of the jury, and the amount to be collected of each. Two copies thereof, shall be made and signed by the mayor or presiding officer of the common council and clerk, one of which shall be filed with the clerk, and the clerk shall deliver the other to the treasurer.

Upon filing assessment, clerk to give notice.

SECTION 13. Upon the filing of the said assessment with the city clerk, he shall immediately publish in a daily or weekly newspaper printed in said city, for at least two weeks, a notice describing the lots, parts of lots, or parcel of land mentioned in said assessment, together with names of the owners thereof, if known, otherwise to describe such owners as unknown, the amounts assessed upon each lot, part of lot or parcel of land described in such assessment, and requiring that such owner or owners, or unknown owners of such lots, parts of lots or parcel of land, show

cause before the common council at the next regular meeting thereof, why such assessment should not be confirmed, and if at the meeting of the common council mentioned in said notice, or at any other time the council may designate, cause be not shown satisfactory to the common council, it may confirm the same, and upon such confirmation, the city clerk shall issue to the city of Fond du Lac, special tax certificates bearing the same interest and of similar form, as mentioned in chapter 14, of this act, and the same proceedings relating to the payment and collection of such certificates, and the same form and effect shall be given to such certificates, when so issued, as are given to certificates mentioned in said chapter 14, of this act.

Subsequent assessment.

SECTION 14. In case the common council shall, at any time, ascertain that the expense of any public improvement cannot be defrayed by the moneys raised upon the assessment list, provided therefor, it may cause the deficiency to be assessed upon the real estate described therein, in sums proportioned to the former assessment; and all the provisions of this chapter relative to the assessment lists therein mentioned, to the assessments therein and the collection and payment of the moneys thereon, shall be applicable to the second assessment list in this section provided.

County court always open for proceedings.

SECTION 15. The county court of Fond du Lac county, shall be taken and deemed to be always open for the proceedings provided in this chapter, and there is hereby conferred upon the said court and the judge thereof, special jurisdiction to do and perform all the acts and duties of this chapter, directed to be done by the said court and the judge thereof.

No property to be taken unless paid for.

SECTION 16. No real estate shall be appropriated by said city, under any of the provisions of this chapter for any street, highway, lane, alley or public square or ground, without the leave of the owner, until the recompense reported by the jury to be proper therefor, be paid or tendered to such owner, or deposited to his or her use or credit, in one of the banks in said city, to be designated by the common council of said city for that purpose. Upon such payment, tender or deposit, the same may be appropriated and taken for such purpose. But the foregoing provisions are not intended and shall not be construed as

prohibiting said city, by its officers, agents and employes, or the jury aforesaid, from entering upon such real estate, and making all the necessary examinations and surveys thereof, for the purposes aforesaid.

Payments of damages.

SECTION 17. The common council shall, within ninety days after the final confirmation of the condemnation proceedings and assessment of benefits, pay or tender to the respective persons entitled thereto, the several amounts awarded by the report of the jury, as confirmed, or elected as above provided for, to be paid by the common council, less the amount assessed to such persons respectively for benefits; provided, however, that every person claiming damages for the taking of land, shall, before he or she shall be entitled to receive any pay for the same, present to and leave with the city attorney, for the use of the city and subject to his approval, an abstract of title of the premises taken, and in which damages may have been awarded, showing as estate in fee simple in the said claimant.

Deposits of amount in bank.

SECTION 18. But in case no person shall make the proper proof of title, as provided in the last section, the common council may deposit the amount in one of the banks of said city, as above provided, subject to the order of the person or persons entitled thereto, on proper proof made, and upon such payment, tender or deposit, the city may enter upon, take possession of and convert the property and premises so condemned as aforesaid, for the use and purpose for which it was condemned.

Cancellation of mortage etc., liens.

SECTION 19. In all cases where any real estate, subject to any mortgage, lien, lease or agreement shall be taken as aforesaid, all the covenants and stipulations thereof, so far as they relate to the lands taken, shall cease, determine and be discharged upon the final confirmation of the condemnation proceedings. And upon application of the city attorney. the person holding the same shall release the land taken, from the effect of such mortgage, lien, lease or agreement, by an instrument in writing, executed and acknowledged so as to be entitled to record, according to the laws of the state.

Dispute of owner.

SECTION 20. If in any case there shall be any doubt as to who is entitled to damages or compensation for land or property taken, the city

may require of the claimant a bond, with good and sufficient sureties, to hold said city harmless from all loss, costs and expenses, in case any other person should claim said damages or compensation.

Superintendent of work.

SECTION 21. Whenever the common council shall decide to make any public improvement under this chapter, or any other chapter of the charter, such common council, after having let the contract therefor, shall have the power and authority to appoint a superintendent of the work of making such improvement, prescribe his powers and duties and fix the compensation to be paid him for his services.

Record of assessment.

SECTION 22. Any portion of the proceedings, so provided herein, after confirmation by the common council, when certified to by the city clerk and mayor, shall be entitled to be recorded in the register's office of Fond du Lac, and when so recorded shall be notice to all persons of the rights of the public in the property so described therein, for the purposes named.

CHAPTER 14.

SPECIAL ASSESSMENTS AND LIENS.

Liens upon lots for any work.

SECTION 1. Wherever by this act it is provided that the city, or any person or persons shall make an assessment upon or against, or have a lien on any lot part of lot or parcel of land, for the doing or performance of any work or labor in the construction, repairs, cleaning or removing of obstruction or other thing, from streets or sidewalks, or from any public place, or the expense and costs of removing or abating nuisances or cleansing noxious places, or the cost or expense of any act, work or labor, any proportion or part thereof, which is in this act provided, shall be a lien upon any real estate; when no other provision is in this act made therefor, such lien shall be perfected and such proceedings had for the collection thereof, as follows:

Proof of labor, etc.

1st. An affidavit of the person or officer authorized to cause, or having in charge such work, labor, costs and expense to be done or incurred, setting forth the order, the proof of the service of such order upon the person or persons required to perform, neglect of such person or persons to obey the order made within the time prescribed, and the cost and expense thereof; and when the work

done or expense made, is done by contract, either by the letting by proposals to bidders or otherwise; all of the proceedings up to the completion of contract and acceptance of work, together with the amount of such contract, expense and the cost of the proceedings thereon, when the work done or the expense incurred, is not done under contract, proof of the expense, and costs thereof; provided, that in case of improvements, wherein this act is provided that an assessment shall be made upon lots, parts of lots, or parcels of lands, such assessments, when so duly made, shall dispense with the necessity of the affidavit as provided in this section.

Filing same with city clerk.

2d. Upon the filing with the city clerk, the affidavit or assessment specified in the next preceding sub-division, he shall present the same to the common council, and shall immediately thereafter give notice to owner or owners of such lot, part of lots or parcels of lands upon which the same are a lien, either by personal service for four days or by publication for eight days, in a daily or weekly paper in said city, previous to the next, or any specified meeting of the council, that such owner or owners, or any other person interested therein, show cause before said council why the said costs and expenses, or said assessments, should not be allowed or confirmed, and be collected in the manner provided by law. If no cause or no sufficient cause be shown, at the time specified in said notice, or at such other time as the council may designate, and if the same be not theretofore paid, the council may confirm such costs and charges, and such assessments, and direct the city clerk to, and he shall thereupon issue special tax certificates therefor, in the form substantially as hereinafter provided, and such confirmations shall be *prima facie* evidence of the regularity of the proceedings theretofore had therein. If such costs or expenses, or such assessments be found just and proper, the common council may order that the same be paid from the moneys in the treasury, raised for that purpose, or such part thereof as may be chargeable to the city; provided, that when the said costs and expenses, or any portion thereof, by the provisions of this act, made a lien upon any lot, part of lots or parcels of land, the payment of the same by the city, shall not release the lien in favor of the city, but the lien shall

continue until the actual payment thereof, by the owner of said lot, part of lots or parcel of lands, or be collected in the same manner in which other taxes are collected; provided, that the said common council shall have no authority to audit and pay any such liens, except such as are incurred by and under, and in accordance with the provisions of this act.

3d. The special tax certificates herein or elsewhere in this act, provided to be issued, shall draw interest at the rate of ten per centum from the date of issue, may be substantially in the following form, to wit:

Form of special tax certificate.

STATE OF WISCONSIN, }
City of Fond du Lac. } ss.

This is to certify that ——— (naming party entitled to same) has a lien upon ——— (description of property) ——— for (designating work, etc., for which the lien has accrued) ——— to the extent of ——— dollars (stating amount of lien) ———. That the same has been allowed and confirmed by the common council of said city. Now, therefore, if the said amount be not paid before the next levy of general city taxes, together with interest at the rate of — per cent. per annum, the same together with such interest will be entered on the next general tax roll for said city, and be collected in the same manner as other city taxes.

Dated, ———

——— ———, City Clerk.

and when so issued, the same may be deposited with the city treasurer, where the same may be paid, and canceled when collected.

Certificate not paid, to be entered on tax roll.

4th. In case the said certificate be not paid before the time for the next levy of general city taxes, the city clerk shall enter the amount thereof, on the tax roll, for that year, in a separate column showing the amount and date thereof, and said amount so entered on said tax roll, shall draw interest at the rate specified, in such certificate, until actual payment thereof, with accumulated interest, or until the land, upon which the same is a lien, is sold for the non-payment of taxes, as provided in the laws relating to the sale of lands for taxes, but no longer.

Amounts so collected, kept in separate fund.

SECTION 2. All amounts collected by any county treasurer from the sale of any lands, for the payment of such certificates and accumulated interest thereon, shall be paid into the city treasury,

and all amounts received by the city treasurer, for the payment of such certificates and interest, shall be kept by him as a special fund and shall be applied for no other purpose than the taking up and cancellation of such certificates; proper reports of all payments of such certificates shall be included in the monthly report of the city treasurer.

Priority of such liens.

SECTION 3. Every lien, assessment or special tax certificate, and all taxes for municipal purposes, which by this act is provided shall exist, accrued, or be made through the enforcement or operation of the provisions of this act, or of any of the ordinances of the said city, shall have priority over all other existing liens, incumbrances, by mortgage or otherwise, except prior tax liens, from the time any act is done, for which such lien accrues or such assessment or special tax certificate is made.

Certificate prima facie evidence, etc.

SECTION 4. Whenever a special tax certificate shall be issued as herein provided, it shall be *prima facie* evidence of a lien upon the land therein described, for the amount and interest therein specified, and no error, informality or defect in the proceedings had before or in the issuance thereof, shall impair or vitiate the right of the person or city, to recover the amount of such lien, in subsequent proceedings.

CHAPTER 15.

DEPARTMENT OF EDUCATION.

Board of education.

SECTION 1. The board of education shall consist of one school commissioner from each ward, and the president of the council.

General powers of board.

SECTION 2. The board of education may make all necessary rules and regulations for its government and proceedings, and, in the absence of the president of the council, may elect from its own number, a presiding officer *pro tempore;* and in the absence of the city clerk, may elect from its number a clerk *pro tempore.*

Meetings and quorum.

SECTION 3. The board may meet from time to time, and at such place in the city as it may designate, and a majority of the commissioners shall always be required to constitute a quorum.

Record of proceedings.

SECTION 4. The clerk of the board, shall keep a record of the proceedings of the board, in a book to be provided for that purpose, and shall record

copies of all official reports made by the board, or the superintendent of schools. He shall also, under the direction of the board, take the annual enumeration of scholars residing in the city at the time prescribed by law, and shall keep and preserve all books, records, papers or other property belonging to his office, and deliver the same to his successor in office.

SECTION 5. The board of education shall have power:

1st. To organize and establish such and so many schools in the city, and in the several wards, as it may deem necessary, and required for the public good, and alter or discontinue the same at pleasure. Establish schools, etc.

2d. To have the custody and safe keeping of the school buildings and lots, the books, furniture, school apparatus and appendages, and all the property belonging to the schools. Custody of school property.

3d. To contract with and employ, in behalf of the city, all teachers in the schools of said city, under the direction of said board, and who shall have been licensed, and at its pleasure remove them. Employ teachers.

4th. To hire buildings suitable for school houses, and lease sites for the same, and to purchase necessary fixtures, furniture and apparatus for the schools of the city; but only with the consent of the common council as hereinafter provided. Hire buildings.

SECTION 6. It shall be the duty of the board of education, before the commencement of the school year, annually to determine the amount of salaries or wages to be paid to the teachers in the several schools and grades respectively, for the year then next ensuing, and report the same to the common council for its action. If the superintendent of schools concurs with the estimate and report of the board, he shall endorse his approval thereon; otherwise he shall make and submit an independent report to the common council. Estimate of teachers' wages

SECTION 7. The common council shall consider the report or reports so made, and shall act thereon, and by resolution fix the salaries or wages to be paid to the teachers in the several schools respectively, according to grades, which resolution shall be certified by the city clerk to the board of education, and thereafter such board shall not contract for the payment of any salary or wages greater than the sum fixed in said resolution, ex- Council to act on report.

cept by the special order of the common council.

Estimates of repairs, etc.

SECTION 8. The board of education shall also, annually, before the close of the school year, make estimates of the expenses for necessary repairs to school buildings, furniture, apparatus, school-room fixtures, incidentals, fuel, cleaning and care of rooms and rent of buildings, necessary to be incurred in the then next ensuing year, and file the same with the city clerk; if the superintendent concurs in such estimate, he shall approve the same, otherwise he shall submit an independent estimate in accordance with his views.

Superintendent of schools, his duties, etc.

SECTION 9. The superintendent of schools shall be the chief executive officer of the department of education in the city. He shall examine the estimate made by the board of education for teachers' wages and salaries, and expenses for schools, which are in this act, hereinbefore required to be made, and if he concur in the correctness and necessity thereof, he shall approve the same, otherwise he shall submit estimates of his own, as is hereinbefore provided. He shall examine all persons seeking employment as teachers in any of the school departments of the city, in the presence of the board of education, and shall give his advice to the board upon the fitness and qualification of each candidate. He shall visit all the schools as often as his duties will permit. He shall pay special attention to the classification of the pupils and to the assignment of studies to the several classes. He shall see that each teacher maintains proper discipline, and shall carefully watch and study the capacity of each teacher to impart knowledge, preserve order and command the respect and obedience of the pupils, and shall report to the board of education, from time to time, concerning such teachers and the discipline, government and progress of the pupils in the several schools. He shall see that the orders and regulations of the board of education are executed; shall attend the meetings of the board when required, and shall advise the board in all matters relating to the schools and school property, and in all things exert himself to promote the interests and welfare of the pupils and teachers, and advance the efficiency of schools in the city.

SECTION 10. The board of education shall, from

time to time, make such rules and regulations for the government and organization of shools, for the reception and instruction of pupils, and their transfer from one school to another, and for the promotion and good order and discipline in schools, as to it shall seem expedient, and also for the care and management of the several school rooms, fixtures, furniture, and apparatus in the city, and shall establish the text books to be used therein. Rules for government of schools, etc.

SECTION 11. The board of education shall have power to allow the children of persons not resident in said city, to attend any of the schools therein, upon such terms as the board shall, by resolution, prescribe, fixing the tuition therefor; provided, that no such pupil shall be received, until he or she shall have paid into the city treasury in advance for the current term, the amount of tuition fixed by said board to be paid therefor. Non-resident children.

SECTION 12. It shall be the duty of the board of education to report to the common council, on the first Monday of August in each year, the condition of the several schools in said city, the average number of pupils in attendance, the names and rate of compensation of the several teachers, the cost of supporting each, and all of said schools, since its previous report, and also to do and perform all other duties that may be required by any general law of this state, to entitle the schools of said city to participate in, and enjoy the benefit of school money, or school fund apportioned among the schools of the state. Annual report of council.

SECTION 13. Teachers' wages, superintendents' salary, and all moneys due upon contract under this chapter, shall be audited by the board of education, and paid by an order on the treasury signed by the president of the board and the city clerk, and specifying on its face, the purpose for which it was drawn. Moneys in contract, how paid.

SECTION 14. All the supplies of the several school houses, and schools, so far as practicable, shall be furnished by contract let to the lowest bidder, by the board of education, subject to the approval of the common council. Supplies to be in contract.

SECTION 15. The rules governing the letting of contracts, as in this act provided, shall, so far as the same may be applicable, govern and apply to the advertising for, and letting of contracts by the board of education. Rules, governing letting of, contract.

Expenses of schools, how allowed.

SECTION 16. The common council shall, from time to time, as necessity may require, appropriate such sum or sums as it may deem requisite to meet the contingent and incidental expenses of the school board, not otherwise provided for, which shall be paid out under the direction of the board, without being first allowed by the common council, by order, specifying the purpose for which it is drawn, such order being first signed by the president of the board and city clerk, but no appropriation after the first, shall be made until the board report, in detail, the items of expenditure by it made of the previous appropriation, and the same shall be approved by the common council; provided, that the total to be expended in each year shall not exceed the amount raised by tax for that purpose.

Shall incur no debt.

SECTION 17. The board of education shall have no authority to incur any debt or liability, except as herein provided.

CHAPTER 16.

POLICE DEPARTMENT.

Mayor at head of police.

SECTION 1. The mayor, *ex-officio*, shall be the head of the police department of the city, and shall have the general supervision, management and control of all members of the police force, including the chief of police, and of the police-station and lock-ups belonging to the city, and may suspend any or either of them summarily, for any neglect or improper discharge of duty, or for any misconduct or disobedience of orders.

Duties of chief of police.

SECTION 2. The chief of police, under the mayor, shall be the chief executive officer of the police department; he shall have the custody of the police stations, city pound, and the general supervision and direction of the police force of the city. He may apprehend, without process, any person or persons while offending within his views, against any law of this state, or against the laws, ordinances, by-laws, regulations of the city, and bring the person or persons so offending before one of the justices of the peace of said city having jurisdiction, and enter the proper complaint against him or them, for trial. He shall have power to commit, for safe keeping, and detain in the police station, every person so arrested, until he can be arraigned before a justice of the peace, or shall be

discharged on bail or upon the written order of the mayor; but he shall in no case commit a prisoner to the police station, when the arrest was made in the day time and before six o'clock in the evening, and a justice of the peace can be found, before whom to arraign the prisoner, and lodge a complaint against him. He shall possess the power of constables at common and statute law, so far as serving process within the city, or writs in criminal actions; but shall receive no fees for serving any process, making any arrest, or performing any duty, from the city, except the salary provided for him, and he shall, in addition, perform all duties that may be prescribed by any ordinance, by-law, regulation or direction of the common council. He shall repair to fires, all riots and tumultuous assemblies, take charge of the police present, protect property, preserve peace, disperse mobs, and arrest all persons who are disorderly and engaged in the disturbance of the peace. He shall report all complaints against policemen for misconduct, improper discharge of, or delinquency in duty, and shall cause to be obeyed all the rules and regulations, provided for the police department. He shall have charge of all the prisoners committed to the police station under sentence, and shall faithfully see that all of the directions of the common council in relation to the manner of punishment of criminals, is carried out. He shall receive as compensation for his services, such salary as the common council may prescribe, and no other.

Policeman, general powers and duties.

SECTION 3. Every policeman shall have the same power of arrest and commitment, and under the same restrictions as the chief of police. They shall perform the duties of night watchmen for the city, and any other duties which may be imposed upon or prescribed for them, by the common council. They shall, in all respects, obey the orders of their superiors in the department, and be at all times subject to the orders thereof. They shall receive such compensation for their services, as the common council may allow and determine, and no other.

Duties of chief and policeman continued.

SECTION 4. It shall be the duty of the chief of police and every policeman appointed under this act, to arrest and bring to trial all offenders against the ordinances, by-laws and regulations of the city, or service and return all civil process

in suits of the city against such offenders. They, or each of them, shall have authority to enter any house, store, saloon, building or place, when any offender against any city ordinance, by-law or regulation is harbored, or secreted, or where any person has in their hearing or presence committed any breach of the peace, or violation of any city ordinance, by-law or regulation, or when any riot, disorderly conduct, unlawful assemblies, noise, outcry, alarm or other disturbance shall be made; and any person or persons, who shall obstruct any such officer or officers in the lawful discharge of his or their duty, shall, upon conviction, before any court having jurisdiction, be fined in the sum of not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100.00), or by imprisonment in the police station or county jail of Fond du Lac county, not less than one month nor more than six months, in the discretion of the court.

Special police.

SECTION 5. The common council may authorize the mayor, in case of emergency or when it may deem proper, to appoint in addition to the police force hereinbefore provided, as many special police for temporary purposes, as may be deemed necessary, and each policeman so appointed, during the time of his appointment, shall have all the powers and discharge all the duties, and be subject to all the liabilities and regulations of regular policemen, appointed by the common council under this act.

Calling upon by-standers.

SECTION 6. The mayor, chief of police, or any policeman, may, in case of necessity, call upon any bystander or other citizen, to assist in arresting or carrying to prison any offender; and any and every person who shall refuse to aid such officer, when lawfully called upon, shall, upon conviction thereof, before any court having jurisdiction, be fined in a sum not exceeding twenty-five dollars ($25.00).

Justices of the peace under this chapter.

SECTION 7. The justices of the peace elected under this act are authorized and empowered, and jurisdiction is hereby conferred upon them, to hear, try and determine all the offenses arising under this act, and in cases where a person be committed to the county jail of Fond du Lac county, or to the police station of said city, for a special term of imprisonment for the non-payment of any penalty and costs, for violating the ordinances of said city, the said justices of the peace

are hereby authorized and empowered, to direct in the warrant of commitment or execution requiring imprisonment, that the person so to be detained by virtue of such commitment or execution, be required to perform hard labor during the term of such imprisonment.

Chief, to have charge of prisoners convicted.

SECTION 8. Whenever any person is committed to the police station for the non-payment of any penalty, together with costs, for the violation of any provisions of this act, or of any of the ordinances, rules or regulations of said city, and it be directed in said warrant of commitment, or execution, that the person therein charged be required to perform hard labor during the term of imprisonment, the chief of police, or such person as the common council shall appoint, shall faithfully see that said conditions and requirements of said commitment or execution, be complied with and faithfully observed, and to that end, the common council is authorized and empowered to require all such persons, so committed to work or labor, or do any kind of labor in said city, which the common council may see fit to designate; provided, that no such prisoner, during the term of his imprisonment or detention, shall remain away from the police station during the night time.

Officers of city, general powers of police.

SECTION 9. Every alderman, every member of the board of health, the health commissioner, and sidewalk superintendent, are hereby constituted policemen, for the purpose of keeping order in, and in enforcing the laws and ordinances of said city, and shall have the power and authority to summarily arrest all persons, whom they or either of them, shall find engaged in the act of violating any of the provisions of this charter, or the ordinances, rules and regulations of said city, and such persons, when so arrested, shall be dealt with, in the same manner as if any policeman had made the arrest.

Chief of police to hold no other office.

SECTION 10. The chief of police, or any policeman, shall hold no other offices, or be competent, or have the authority to exercise the duties pertaining to any other office than that of policeman of the city of Fond du Lac, except as herein provided.

CHAPTER 17.

BOARD OF HEALTH.

Duties of health commissioner.

SECTION 1. The health commissioner shall, whenever occasion requires, investigate and ascer-

tain causes tending to create sickness, and make diligent inquiry with respect to all matters affecting the health of the city. He shall cause all nuisances to be abated by removal and otherwise; he shall take such measures as may from time to time, be necessary to prevent the spread of pestilential or infectious diseases, to see that suitable provisions are made for the accommodation of such sick persons as properly come under the care of the city. He shall keep a record of the mortality of the city; he shall have power to enter any building, house, store or stable, and to cause the floors to be raised, if it shall be deemed necessary, for a proper examination of cellars, vaults, sinks, drains or low ground, to enter upon all lots or grounds, and to cause all stagnant waters to be drained off, and all pools, sinks, vaults, drains or low grounds to be cleansed, filled up or otherwise improved or changed, to cause all privies to be cleansed and kept in good condition. It shall be his duty to make complaint to any justice of the peace, for any violation of the provisions of this charter, or ordinances of the city, in any way relating to the functions of this office, or to the health or sanitary condition of the city.

Powers of board of health.

SECTION 2. Whenever a board of health shall be appointed by the common council, each member thereof, shall have and possess, all of the powers and rights, and be under the same responsibilities, and perform the same duties in their respective wards, as herein given and specified in this act, relating to the powers, duties and responsibilities of the health commissioner, except that the members of such board when duly organized, shall be governed by such rules and regulations, not inconsistent with this act or the ordinances and resolutions of the common council, as may be adopted by said board.

To cause removal of nuisances.

SECTION 3. The health commissioner, and when in existence, every member of the board of health within the ward where he resides, shall have power to direct or cause the removal or purification of all filthy or nauseous places or substances, producing disagreeable smell or tending to produce disease, or in case the owner or occupant of the premises in which such places or substances may be, shall neglect or refuse to purify or remove the same, when ordered by said board, or any member thereof, such person shall be liable

to a penalty of not less than three (3) nor more than fifty (50) dollars.

Costs of removing nuisances.

SECTION 4. The costs and expenses of removing all nuisances and nauseous substances, and of purifying filthy or nauseous places, shall be, and remain a charge against the person whose duty it should have been to remove or purify the same, and may be collected by suit for and in behalf of the city, in the same manner as other demands are sued for and collected; and in case the owner of any lot or parcel of land shall have been the cause of any such nuisance, or whose duty it should have been to remove or purify the same, the same shall be a lien upon the lot, parts of lots or parcels of land from which such nuisances or filth shall have been removed, and also upon all non-resident lots from which such nuisances or filth shall have been removed.

Notice to remove nuisances.

SECTION 5. In order to carry out the provisions of the preceding sections, it shall be the duty of the health commissioner or board of health, when in existence, or any member thereof, to serve a notice in print or writing, or partly in print or writing, upon the owner or occupant or agent of any lot, building or premises, in or upon which, any nuisance may be found, or who may be the owner, or cause of any nuisance, requiring him to abate the same, or to do any other act authorized by this chapter, in such manner and in such reasonable time as such officers shall prescribe.

Laws and rules.

SECTION 6. The common council shall have power from time to time, to pass and enforce such laws, rules and regulations for the board of health or health commissioner, and provide for the necessary expenses of such board, or any member thereof, as they may deem expedient, for preserving the health of the city and for the prevention of disease and sickness, and enforce them by fines, penalties and imprisonment.

Claims and demands.

SECTION 7. No claim or demand for services, with labor, necessaries, medical treatment or medicines, shall be allowed or paid by said common council or treasurer of said city, unless the person or physician rendering such service or furnishing such necessaries, shall have been previously employed by the health commissioner or by the board of health of said city in writing.

Reports of physicians.

SECTION 8. Every practicing physician in said city, who shall have a patient laboring under any

malignant fever or other infectious or pestilential disease, shall forthwith, after the existence of any such disease be by him discovered, report the same to the health commissioner of the city, or if the board is organized, to the member in whose ward such patients shall be, and any practicing physician who shall neglect to do so, shall be subject to a fine of not less than ten dollars ($10), nor more than twenty-five dollars ($25), in the discretion of the court trying the same.

Penalty for bringing in pestilence.

SECTION 9. Any person who shall knowingly and designedly bring or cause to be brought into said city, any person not a resident therein, who shall, at the time, be affected with small-pox or any infectious or pestilential disease, shall, upon conviction thereof, pay a fine of not less than fifty dollars ($50) nor more than one hundred dollars ($100), in the discretion of the court.

Lien for removing nuisance, proceedings.

SECTION 10. Whenever the costs and expenses of removing nuisances, or of purifying filthy or nauseous places, by virtue of this act, or which may be provided for, by any ordinance of the city, shall become a lien upon any lot, part of lot or parcels of land as herein provided, and proper proof of the service of notice to so remove or purify, upon the owner of said lot, part of lot or parcels of land, in case the said owner was, by the provisions of this act required so to remove or purify, shall have been made by the health commissioner, or any member of the board of health, and filed with the city clerk, together with a verified account, showing the items of such costs and expense, the common council may thereupon audit and cause to be paid such expense, from the funds of the city; whether the same be so paid or not, the city clerk shall, within thirty days after the said proof of notice and account shall have been filed with him, give notice to the owners of said lot, part of lots or parcel of land, by causing personal service of the same for one week, or, if the owner be a non-resident of the city, by publishing the same, for two weeks in a daily or weekly paper printed in said city, to the effect that if the said costs and expense, together with the costs of publication, be not paid within thirty days from the date of said notice, a special certificate will be issued upon said lot, part of lots or parcel of land, for the amount of such costs, expenses, publication and interest, which may become

due on such certificate at the time the same be entered on the tax roll, and if the terms of such notice be not complied with, within the time so limited, the city clerk shall thereupon issue a special tax certificate in favor of the city, which shall, in form and substance be, and have the same form and effect, as elsewhere provided in this act for special tax certificates.

CHAPTER 18.

MISCELLANEOUS PROVISIONS.

Liability of owners for damages on sidewalks.

SECTION 1. Every corporation, association, or society, owning, and each and every owner of any lot, part of lot, or parcel of land, in said city, upon, along, in front of, or adjoining, which there shall have been or shall hereafter be placed, constructed, or laid, any walk, or sidewalk, for the use or accommodation of the public to walk upon, shall at all times keep and maintain said walk, or sidewalk, or cause the same to be kept and maintained in a safe, convenient and effective condition, for the use of any person or persons desirous to walk thereon; and any person who may have been, or shall hereafter be injured by reason of the unsafe or defective condition of such walk or sidewalk, shall have the right to maintain an action in any court of record against such owner or owners, for all damages or injury of every nature, resulting to such person or persons by reason of the neglect of such owner to maintain, or caused or cause to be maintained, such walk or sidewalk in a safe, convenient and effective condition; provided, that no action shall be maintained against such owner, unless the same be commenced within one year from the time, such injury shall have happened to the person so claiming such damages.

Liability under general laws in this respect qualified and repealed.

SECTION 2. It is hereby declared to be the true meaning and intent of this act, in the provisions relating thereto, that the said city of Fond du Lac, shall not, in any case, be liable to any person or persons, for damages resulting from the defective, unsafe or dangerous condition of any walk or sidewalk, mentioned in the foregoing section, or for any neglect in the keeping and maintaining of the walk or sidewalk of said city in a safe, convenient or effective condition, and the only cause of action to which the said city of Fond du Lac shall be liable, or which shall be maintained in any

court against said city, in connection with, or relation to damages resulting from the failure to keep the walks or sidewalks in said city, in a safe, convenient or effective condition, shall be by reason of the failure of any person or persons to collect a judgment recovered against such owner, or owners, or corporation or society, for any such damages, resulting from such injuries, as hereinbefore stated.

On return of execution on judgment against owner, city liable.

SECTION 3. Whenever an execution upon any judgment recorded by any person or persons, against any such owner or owners of any lot, part of lot or parcel of land mentioned in the next two preceding sections, for damages resulting from the unsafe, defective or dangerous condition of any walk or sidewalk, shall have been returned, as provided by law, unsatisfied, and no fraud, collusion or misrepresentations shall have been practiced by any of the parties thereto, or for and on their behalf, an action may then be commenced in any court of record against said city for the said damages resulting from the unsafe, defective or dangerous condition of such walk or sidewalk, and said city may interpose a defense to the merits of said cause of action, in the same manner as said owner or owners shall have made, or may have made, or any other defense which may be sufficient in law or equity to defeat said claim; and the said judgment against said owner or owners, shall in no way be effectual or operate as a bar to any defense the said city may interpose: provided, that it shall be a sufficient and complete defense to any such action commenced against said city to maintain collusion, fraud or misrepresentation by any of the parties to said judgment, or by any person or persons for and on their behalf; and, provided further, that no such action shall be maintained against said city unless commenced within six months after the return of execution unsatisfied, or within one year after the recovery of such judgment against such owner or owners; nor shall such action in any event be maintained, unless the person or persons claiming such damages, shall have in the first instance filed with the city clerk, a statement of the claim, together with the name of the person or persons against whom the claim is made, and the circumstances out of which it arose, duly verified on the oath of the claimant or claimants, within sixty days after the

happening of the occurrence by which the injury was done and damage resulted.

Injuries resulting from neglect of persons.

SECTION 4. In case of injury or damage by reason of insufficient, defective or dangerous condition of drains, sewers, gutters or ditches, bridges, and such portions of streets as are not included in sidewalks, produced or caused by the wrong, neglect of duty, default or negligence of any person or corporation, such person or corporation shall be primarily liable for all damages for such injury, in suit for the recovery thereof, by the person sustaining such damages, and the city shall not be liable therefor, until all legal remedies shall have been exhausted, to collect such damages from such person or corporation; provided, that this section shall apply to and hold as liable, all persons who may have produced or caused such wrong, neglect of duty, default or negligence, while holding contract relations with said city, or any department therein, as well as all persons who at the time shall not hold contract relations with said city.

Notice of claim to be filed.

SECTION 5. No action shall lie or be maintained against the city of Fond du Lac on contract, until the claimant shall have presented to the common council, a statement of the claim and the amount thereof, and the circumstances out of which it arose, duly verified on the oath of the claimant, and the council shall have allowed a regular meeting to have passed without an adjustment with the claimant of such claim or demand.

Notice for claim for return in tort.

SECTION 6. No action in tort, other than is hereinbefore provided, shall lie or be maintained against the city of Fond du Lac, unless a statement in writing, signed by the person injured or claiming to be injured, of the wrong and circumstances thereof, and amount of damages claimed, shall be presented to the common council within sixty days after the occurring or happening of the tort alleged; provided, that this section shall not apply or qualify any of the provisions of sections 1, 2, 3, of this chapter.

Toll upon streets.

SECTION 7. Neither the common council, nor any person or persons, nor any corporation or company, within or without the said city of Fond du Lac, shall hereafter have the right or authority to impose upon, ask for, or receive, or collect, any toll for, or other consideration of, or from any person or persons for traveling upon any of the

streets, roads, highways or turnpikes, in person or with animals, vehicles, or any other manner, within the limits of said city, and all of the streets, roads, highways, or turnpikes or any part or parts thereof, now within the limits of said city of Fond du Lac, upon which any toll or other compensation is asked, required, imposed or collected, as a condition for, or for traveling in any manner thereon, shall hereafter be free highways. All private or public acts of this state, and all rights and privileges heretofore granted to any person, persons or corporation, by any private or local laws of this state, which conflict in any manner or way with the provisions of this section, or which prevents, or tends to prevent, the carrying out of the provisions of this section, are hereby repealed.

Exemption from execution.

SECTION 8. All property, real, personal and mixed, belonging to, or which may hereafter belong to the city of Fond du Lac, and held by it for municipal purposes, shall be, and is exempt by law from execution, or any process to compel the collection of any debt or demand against the city.

No execution to issue.

SECTION 9. No execution shall ever issue upon any judgment against said city, but all judgments shall be collected and enforced in the same manner as judgments against towns, and not otherwise.

Competency of citizens for jurors.

SECTION 10. No person shall be an incompetent judge, witness or juror in any proceeding or action in which the city shall be a party in interest, by reason of being an inhabitant or tax payer in said city.

Rewards.

SECTION 11. Whenever any grave or heinous crime shall have been committed in said city against life or property, the mayor, with the concurrence of the common council, may offer a reward for the arrest and conviction of either of the perpetrators of such crime; provided, that such reward shall in no case exceed five hundred dollars ($500).

Justices docket.

SECTION 12. The justice or justices of the peace who may have in his custody the dockets of the heretofore municipal judges of the city, may issue execution upon any judgment appearing upon said dockets, in the same manner and with like effect as if such judgment had been rendered by him.

SECTION 13. All ordinances, orders, resolutions, regulations and by-laws now in force in said city of Fond du Lac, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council. Ordinances now in force.

SECTION 14. No general law of this state contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in said law, and all general laws which are in conflict or inconsistent with the provisions of this act, are hereby repealed, so far as the same applies to the city of Fond du Lac. Repealing laws

SECTION 15. This act shall be deemed a public act, and may be read in evidence without further proof, and judicial notice thereof, shall be taken in all courts and places; and all ordinances, orders, rules, resolutions or regulations and by-laws of said city, when printed and published, as in this act provided, with a certified copy of the resolution of the common council adopting such book or pamphlet, attaching to the cover thereof, shall be received and read in evidence in all courts and places without further proof. Also the book in which the ordinances of said city are recorded at length by the city clerk, shall be received and read in evidence, in all courts and places without further proof. This act a public act.

SECTION 16. The common council may, at any time, publish in book or pamphlet form, all ordinances, by-laws, rules, regulations, and all by-laws, rules and regulations of the board of education, board of health, or of any other body or board, authorized by this act to be elected or appointed, and may, in the same book, publish this act, and embody any subsequent amendment to this act duly made therewith, and such book, when so published, and, by resolution, duly passed by the common council, adopted as the charter, ordinances, by-laws, rules and regulations of said city; such publication in book or pamphlet form, shall be deemed and held to be a legal and sufficient publication of said ordinances, by laws, rules and regulations. Charter and ordinances in book form.

SECTION 17. The manner of submitting any question to the electors of said city, hereinbefore required by the provisions of this act to be so submitted, shall be as follows: The common coun- Popular vote in special subjects.

cil shall cause a notice to be prepared, which shall be signed by the mayor and clerk and be published in some daily, if any, and, if not, then in some weekly newspaper printed in said city, the first publication to be at least thirty days previous to the holding of any annual municipal election. Said notice shall particularly set forth the question to be determined at such election, the form of the ballot to be used by such electors as may vote in favor, or against the proposition submitted, and that the same will be submitted at the next annual municipal election, at the same place in each ward for the holding of the polls of each municipal election. All votes thereon shall be received and recorded, and such returns thereof be made and canvassed, and the result thereof declared, in like manner as annual elections are under this act required to be conducted, and the returns thereof made, canvassed and declared. But any question so submitted shall be declared lost, unless it shall appear on such canvass that a majority, or more, of all the legal votes so cast thereon, shall be in favor thereof.

Not repealed.

SECTION 18. No general law of this state shall be construed or taken to amend, modify, alter or repeal this act or any provision thereof, unless such purpose be set out in such law.

Altering or repealing this act.

SECTION 19. This act, nor any part thereof, nor any act in any way affecting the municipal government of the city, or any part thereof, shall be altered, amended, repealed or passed, unless the same shall be recommended by a majority of all the members of the common council.

Pending proceedings.

SECTION 20. No proceedings heretofore had, which are not determined under and by virtue of the chapter or ordinances of said city, in force before the passage of this act, in the matter of any public improvement, or the improvement of streets, sidewalks or any other work, shall in any way be invalidated by the passage of this act, but all further proceedings, so far as the provisions of this act shall be applicable, shall be had under this act.

Repealing clause.

SECTION 21. Chapter 240, of the laws of 1879, chapters 12 and 227, of the laws of 1880, chapter 148, of the laws of 1881, chapters 31 and 126, of the laws of 1882, and all acts heretofore passed relating to the charter of the city of Fond du Lac, are hereby repealed.

SECTION 22. This act shall be considered a public act, and shall be in force and take effect from and after its passage and publication.

Approved March 24, 1883.

[No. 94, S.] [Published March 30, 1883.]

CHAPTER 174.

AN ACT to incorporate the city of De Pere.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER 1.

CORPORATE POWERS.

Corporate name and powers.

SECTION 1. From and after the first Tuesday of April, 1883, the district of country in the county of Brown, contained within the limits and boundaries hereinafter described, shall be a city by the name of De Pere, and the people now inhabiting, and those who shall hereinafter inhabit the district of country herein described, shall be a municipal corporation by the name of the city of De Pere, and shall have the general powers possessed by municipal corporations at common law, and under the revised statutes, and in addition thereto, shall have and possess the powers hereinafter specifically granted, and the authorities thereof, shall have perpetual succession; shall be capable of contracting and being contracted with; suing and being sued; pleading and being impleaded in all courts of law and equity; and shall have a common seal, and may change and alter the same at pleasure.

City boundaries.

SECTION 2. The territory lying in the county of Brown, and within the following limits and boundaries, to-wit: Commencing at the middle of the channel of Fox river, where the north line of private claim number twenty-nine (29), on the east side of Fox river, intersects, or, if extended, would intersect said channel, running thence easterly along said north line of private claim number twenty-nine (29), on the east side of Fox river, to a point eighty-three (83) rods beyond its crossing of the highway known as the "New Ridge Road;" running thence in a straight line at right

angles to said claim line, to the south line of private claim number thirty-six (36), on the east side of Fox river; running thence westerly along the said south line of said claim number thirty-six (36), to the center of the channel of Fox river aforesaid, and running thence in a northerly direction along the middle of the channel of said river, to the place of beginning, shall comprise the territory and limits of the city of De Pere.

Ward boundaries.

SECTION 3. The said city shall be divided into two wards, as follows: The first ward shall be all that portion of said city lying north of the center of George street, and the north line of said street extended, to the center of Fox river, and the dividing line between private claims number thirty-one and thirty-two, east side of Fox river, where the same intersects said George street; thence easterly on said claim line to the city limits; the second ward shall be comprised of all that portion of said city not included in the first.

Corporate authority, in whom vested.

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the mayor; in one board of aldermen, consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter provided for, or may be created under this act.

CHAPTER 2.

ELECTIONS, OFFICERS, ETC.

Officers.

SECTION 1. The elective officers of said city shall be a mayor, treasurer, assessor, city clerk and two justices of the peace for the city at large, three aldermen and one constable for each ward. All other officers necessary for the proper management of the affairs of said city, shall be elected by the common council.

Terms of elective officers.

SECTION 2. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and have qualified; said justices of the peace shall hold their respective offices for two years.

Elective officers shall be qualified electors.

SECTION 3. All elective officers shall be qualified electors of said city.

Annual election, when held.

SECTION 4. The annual election for ward and city officers, shall be held on the first Tuesday in April of each year, at such place in each ward as

the common council shall designate, and the polls shall be kept open from nine o'clock in the forenoon until sundown: and ten days' previous notice shall be given by the common council, in a paper published in said city, of the time and place of holding such elections, and of the city and ward officers to be elected.

Qualified electors.

SECTION 5. All persons who are qualified electors of the state of Wisconsin, shall be deemed qualified electors of said city, and may vote in the ward in which they reside.

Elections shall be by ballot.

SECTION 6. All the elections by the people shall be by ballot, and a plurality of votes shall constitute an election. The votes for all elective officers shall be on one ballot, and shall be deposited in one ballot box. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council at such time, and in such manner as they shall direct.

How elections shall be conducted.

SECTION 7. The elections shall be held and conducted in the same manner and under the same penalties, and all guards against illegal voting observed, and inspectors and clerks appointed, and vacancies in the board of inspectors filled as required by the laws of this state regarding elections.

Canvass of votes.

SECTION 8. When an election shall be closed, and the number of votes for candidates or persons voted for, shall be counted and ascertained, the inspectors shall make a return thereof, stating therein the number of votes for each person for each and every office, and shall deliver, or cause to be delivered such return to the city clerk, within three days after any election. The common council shall, on the fourth day after such election, meet and canvass said returns, and declare the result as it appears from the same, and the city clerk shall forthwith give notice to each person elected, of his respective election.

Powers of council and mayor.

SECTION 9. The common council shall have power, for due cause, to expel any of their number. The mayor shall have power to suspend the marshal or any other police officer or watchman appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created, for the time being. All officers appointed by the mayor or common council,

may be removed at the pleasure of the council, by a two-thirds vote of the aldermen elect.

What is deemed a vacancy.

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as herein provided.

How vacancies are filled.

SECTION 11. Whenever a vacancy shall occur in the office of mayor, city clerk, city attorney, alderman, or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council, within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof, for the unexpired term, and with the same right and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Special election to fill vacancies.

SECTION 12. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner and the returns thereof, shall be made in the same form and manner, as general or annual elections, and within such time as may be prescribed by ordinance.

Supervisors to represent city on county board.

SECTION 13. A supervisor to represent each ward of said city in the county board of supervisors of Brown county, shall be annually elected at the time and place of the election of aldermen for said city. Each supervisor so elected, shall hold his office for one year, and shall be, when so elected, a resident of the ward for which he is elected.

CHAPTER 3.

OFFICERS AND THEIR POWERS.

Duties of officers and their powers.

SECTION 1. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed by the constitution, and file the same, duly certified by the officer taking the same, with

the city clerk, and the clerk, marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of De Pere, a bond, with two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, liabilities or executions, [exemptions] and said bond shall contain such penal sum and such conditions, as the council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with at least two, nor more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount, over and above all debts, liabilities or executions, [exemptions] and the aggregate of such amounts, shall at least exceed the penal sum specified in such bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office, any officer refusing or neglecting to give the same. Justices of the peace, shall qualify in the same manner as in towns, except that their bonds shall be approved by the common council.

Duties of mayor.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state and ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police force of the city; and in case of riot or other disturbance he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and appoint some one to fill the vacancy, but such removal and appointment, shall be subject to the ratification or approval of a majority of the common council. The mayor shall have a vote in the council only in case of a tie.

Election of president.

SECTION 3. At the first meeting of the council after its election in each year, it shall proceed to

elect, by ballot, one of its members president, and in the absence of the mayor, the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor. In case both the mayor and president shall be absent from any meeting of the common council, it shall proceed to elect one of its number, a temporary presiding officer, who for the time being shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council, or performing the duties of mayor, shall be styled acting mayor, and any acts performed by them, shall have the same force and validity as if performed by the mayor, but the president of the council or temporary presiding officer, as acting mayor, shall sign no order, warrant or other proceeding whatever, which the mayor theretofore has refused to sign.

Duties of clerk.

SECTION 4. The clerk shall keep the corporate seal, and all papers and records of the city, and keep a full record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of any and all books, papers, instruments or documents filed in his office, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts in like manner as if the originals were produced; he shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose, and perform all necessary acts required of town clerks. Whenever the clerk and his deputy shall be absent from any meeting, the common council may appoint a clerk *pro tem.*, who, for the time being, shall be vested with the powers and duties of the clerk. The city clerk shall have power and authority to administer oaths and affirmations, and may appoint a deputy in writing, under his hand, and file such appointment in his office, and such deputy in case of absence or disability of the clerk, shall act in his place.

SECTION 5. The treasurer shall perform such

duties and exercise such powers, as may be lawfully required of him by the ordinances of said city, or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in suitable books to be provided for that purpose, and in such manner as the common council shall direct. He shall report to the common council, as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement, shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties, and be subject to the same liabilities as treasurers of towns. Duties of treasurer.

SECTION 6. The city marshal shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city or laws of this state, may pursue and serve all writs and processes in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend, with or without warrant, any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such services he shall receive such fees as are allowed by law to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the mayor, common council or ordinances of said city. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties. The marshal shall be appointed by the common council as soon as it shall organize, and it may, at the time of his appointment, or afterwards, allow him such further compensation than above described, as it may deem prudent. Duties of marshal.

SECTION 7. The common council may, at its first

Duties of city attorney.

meeting, elect a city attorney, to conduct the law business of the corporation, but the council may omit such election, and when necessary, provide or employ such an attorney, or counsel as it may desire. The city attorney, if there be one, shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the common council or any of its committees. He shall keep a docket of all cases to which the city may be a party in any court, in which, shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to the inspection of the mayor or any member or committee of the common council. It shall also be the duty of the city attorney, when required by the common council, to draft all ordinances, bonds, contracts, leases, conveyances and other instruments in writing necessary to the business of the city government, and to perform such other duties, as may be prescribed by the charter and ordinances of said city. He shall receive such reasonable compensation as may be agreed upon, for services rendered.

Other duties may be required of any officer.

SECTION 8. The common council shall have power from time to time, to require other and further duties to be performed, by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by it, where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix by resolution, the salary which shall be paid to the clerk and assessor for the ensuing year, and such salary, shall not be increased or diminished during the term of the officer elected. Neither shall extra compensation be granted, except by unanimous vote of the council, approved by the mayor. For the year 1883, such compensation shall be fixed by the common council within ten days after it shall organize, and the notice of the first election held under this charter, may be given by the acting village clerk, and the inspectors thereof, may be appointed by the persons acting as the board of trustees of the present village of De Pere.

Salaries of clerk and assessor.

SECTION 9. If any person, having been an offi-

cer in said city, shall not, within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects of every description in his possession, belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city, one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by laws of the state.

Penalty for refusal to deliver to successor.

SECTION 10. No mayor or alderman shall be a party to, or interested in, any job or contract with the city, and any contract in which they, or either of them, may be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid, from the parties to such contract, and the mayor or aldermen interested in the same, or either, or any one of them.

No officer shall be interested in any job or contract.

SECTION 11. The mayor or acting mayor, and each and every alderman, justice of the peace, marshal, constable and watchman shall be officers of the peace, and may command the peace, and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purpose, may command the assistance of all bystanders and other citizens; and if any person, bystander or citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of five dollars ($5); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Officers of the peace enumerated.

SECTION 12. All actions brought to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by, or before any justice of the peace in the city. All fines and penalties collected by any justice in such cases, shall be paid over to the city treasurer. Each justice of the peace shall report to the common council, on the first Monday in January, April, July and Octo-

Actions to be under corporate name of city.

ber in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof, to the city treasurer, except as above mentioned.

Resignations.

SECTION 13. Any officer may resign his office by filing his written resignation with the clerk, and such resignation shall take effect, and his office shall be deemed vacant, from the time such resignation shall be accepted by the common council.

No city officer shall be accepted as surety on any bond.

SECTION 14. No alderman or other city officer, shall be accepted as surety upon any bond, note or obligation made to the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office, until such bond shall have been filed and approved, as by this act provided.

CHAPTER 4.

THE COMMON COUNCIL, ITS POWERS AND DUTIES.

Style of ordinances.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of De Pere do ordain." The common council shall hold its first annual meeting each year, on the second Monday in April, and thereafter stated meetings upon the first Monday of each and every month, during the year. A majority of the aldermen shall constitute a quorum.

Special meetings, how called.

SECTION 2. The common council shall hold special meetings by order of the mayor, or written request of two aldermen, by notice to each of the members, to be served personally or left at their usual places of business or abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members, and have power to compel the attendance of absent members, and to enforce its rules, to punish by fine, by a vote of two-thirds of its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds of its members, may expel any member for cause.

Council to have control of finances.

SECTION 3. The common council shall have the management and control of the finances and of all the property of the city; and shall likewise in addition to the powers herein vested in it, have full power and authority to make, enact, ordain, es-

tablish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health thereof, as it shall deem expedient, declaring and imposing penalties, and to enforce the same, against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and to have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-laws:

To license shows, saloons, etc.

1. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances, under the ordinances or at common law, and may grant licenses for, and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in, or vending spirituous, vinous or fermented liquors, shall not be less than seventy-five dollars ($75.00), nor more than three hundred dollars ($300.00), per annum. Such licenses shall not be granted for a longer term than one year, and shall run from the first day of May and to expire on the first day of May; provided, however, where any such license is applied for after that date, the same be granted to expire on the first day of May next following, on the applicant paying *pro rata* therefor.

Gambling.

2. To restrain and prohibit all descriptions of gaming, and fraudulent devices and practices, and playing of cards, dice, or other games of chance for the purpose of gaming, in said city, and to restrain any person from vending, giving, or dealing in spirituous, fermented or vinous liquors or drinks, unless duly licensed by the common council.

Riots and noise.

3. To prevent any riots, noise, disturbance, or disorderly assemblages; to suppress and restrain disorderly houses, or groceries, and houses of ill-

fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Unwholesome places.

4. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses and gunpowder.

5. To direct the location and management of slaughter houses and markets, and to regulate the storage, safe-keeping and conveying of gunpowder or other combustible materials.

Encumbering of streets.

6. To prevent the encumbering of streets, sidewalks, lanes, alleys and bridges with carriages, carts, wagons, sleighs, boxes, lumber, firewood, logs, or any other material or substance whatever, and to prevent the loading and unloading of lumber, logs, shingle, bolts, or other material or substances, of whatever name or kind, upon the bridges in said city, or extending across Fox river between said city and any point on said river opposite to said city.

Horse racing, swimming, etc.

7. To prevent horse racing, and immoderate riding or driving in the streets, and upon any and all bridges, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

8. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese and to authorize the distraining, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.

Dogs.

9. To prevent the running at large of dogs and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Unwholesome substances.

10. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass or other unwholesome substance and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and, on default, to authorize the re-

moval thereof by some competent officer at the expense of such person or persons.

License hacks.

11. To regulate, license and suppress omnibuses, hacks, cabs, drays, carts, and to regulate the charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city.

Boards of health.

12. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and return the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Bread.

13. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding on sidewalks.

14. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.

Fire-arms and crackers.

15. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered, by the common council, dangerous to the city or any property therein, or annoying to the citizens thereof.

Restrain drunkenness.

16. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners, solicitors, etc.

17. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to make rules and ordinances for the government and regulation of the police of said city.

Public markets.

18. To establish public markets and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Provisions.

19. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.

Hay and fuel.

20. To regulate the place and manner of the weighing, measuring and selling of fuel, hay and lime, and to appoint suitable persons to superintend and conduct the same.

Snow and dirt.

21. To compel the owners or occupants of buildings or grounds to remove snow, dirt or rub-

bish from the sidewalks, street or alleys opposite thereto, and to compel such owners or occupants to remove from the lot owned or occupied by them, all such substances as the board of health may direct; and on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants.

Infectious diseases.

22. To regulate, control and prevent the landing or passing through said city, of persons from boats, vessels, cars or stages, who are infected with contagious or infectious diseases or disorders, and to make such disposition of such persons and their property as to preserve the health of said city.

Auctioneers.

23. To license auctioneers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers or transient dealers, or the payment of a license, or both, as the council shall determine.

Watchmen and policemen.

24. To appoint watchmen and policemen and prescribe their duties.

How ordinances shall be passed.

SECTION 4. All laws, ordinances, regulations and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council, and all ordinances, before the same shall be in force, shall be signed by the mayor, and shall be published once a week for three successive weeks, in the newspaper selected by the council, printed in said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk, in books to be provided for that purpose; but before the said laws, ordinances or regulations shall be recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

When to take effect.

SECTION 5. No ordinance or resolution, requiring the signature of the mayor, shall take effect until seven days after the passage of the same, unless sooner approved in writing by the mayor, or acting mayor for the time being.

SECTION 6. The mayor shall have power to veto any ordinance, act or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the common council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and the clerk shall thereupon call a special meeting of the council in the manner provided by section 2 of this chapter, to consider such veto and objections; and in case the council shall not, within one week after the receipt of such objection or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of five of the aldermen elect, the same shall be null and void. If the mayor shall not return any ordinance, act or resolution so presented to him within seven days after the passage thereof, it shall take effect in the same manner as if he signed it. Veto power defined.

SECTION 7. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken. Rescinding votes.

SECTION 8. The power conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar nor hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, and houses of ill-fame, are hereby declared and shall be deemed public or common nuisances. Shall not bar or hinder suits.

SECTION 9. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal, and all other officers and agents of the city, at such time as it may deem proper, also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired; and the common council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his duties, in pursuance of this section, or shall wilfully neglect or refuse to render his accounts, or present his mon- Council shall audit accounts.

eys, books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council may order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

Appointment of standing committees.

SECTION 10. The mayor, at the first regular meeting of the common council in each year, shall appoint standing committees as follows: On streets and sidewalks, on bridges, on accounts, on finances and taxation, on ordinances, on fire department and public buildings and grounds, from the common council; and also a board of health and fire wardens from the members of the common council or otherwise, and such other committees as the ordinances of said city or common council may determine.

No compensation.

SECTION 11. No compensation or salary shall be paid to the mayor or any alderman of said city, except such fees as are now or may be hereafter allowed by law.

Contracts to be let to lowest bidder.

SECTION 12. All contracts for work ordered by the common council of said city, in which the amount thereof shall exceed the sum of one hundred dollars ($100), shall be let to the lowest reasonable and responsible bidder who shall have complied with the requirements hereinafter set forth. All bids and proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city of De Pere in the penal sum equal to the amount of the bid conditioned, which bond shall be signed by the bidder and by a responsible surety, who shall justify that he is worth the sum mentioned in such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditioned that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; and in case of failure said bond may be prosecuted in the name of the city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action.

CHAPTER 5.

OPENING OF STREETS, ALLEYS, ETC.

Opening streets and alleys.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use the land in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in the city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the city for the purpose of constructing and repairing sewers and drains, giving the course and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, the common council shall, if it deem it necessary to take and use such lands for the purpose specified in such petition, cause notice of such application to be given to the owner or owners of such land, in case such owner or owners, shall reside in the county of Brown, and to the occupant or occupants of such land, if any there be, which notice may be served personally or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if a portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in a public newspaper printed in the city of De Pere, for four successive weeks, at least once in each week.

What notice shall contain.

SECTION 2. Such notice shall state that on a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge of the county of Brown for the appointment of six jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition, and if so, to assess damages. Should any of the lands proposed

to be taken or used, belong to the county judge. the application shall be made to the sheriff of the county.

Appointment of jurors.

SECTION 3. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or sheriff, as the case may be, shall thereupon appoint as jurors six reputable freeholders, residents of the city, and not interested in the result of such application. The said judge or sheriff shall thereupon issue his precept, directed to said jurors, requiring them within thirty days from the date thereof to view such premises, to be specified in said precept, and to make return under their hands to the common council, whether in their judgment it is necessary to take or use said premises for the purposes specified in such application.

In case any juror is disqualified.

SECTION 4. If any juror so appointed shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or sheriff shall appoint others in their place, and a memorandum of such substitution shall be indorsed on the precept.

Jurors shall view premises.

SECTION 5. The said jurors, having first taken the oath hereinafter provided for, shall, at such times as they may agree, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jurors shall make a report.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take or use the premises in question for the public use; which said report, testimony and precept shall be returned to the common council within the time limited therein.

Council shall enter an order confirming report.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall, if it approves such report, enter an order among its proceedings confirming said report, and directing the same jurors, within one month thereafter, or such further time as may be necessary, to again view said premises for the purpose of ascertaining and determining the amount

of damages to be paid to the owner or owners of the property proposed to be taken, and to assess and return within the time limited, such damages to the common council; and after the jurors shall have made their report, as to the taking or use of any lands or premises under this act, and the same have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve, in ascertaining the amount of compensation as above.

In case there is a building on premises.

SECTION 8. If there should be any building standing, in whole or in part, upon the lands to be taken, the jurors, before proceeding to make assessments, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to remove.

Ten days notice to be given.

SECTION 9. At least ten day's personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all persons interested shall be given by publication in a newspaper published in said city for three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the common council may allow.

In case owner refuses to take building at value.

SECTION 10. If the owner refuse to take the building at the value to remove, or fails to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor; provided, it shall be necessary to remove such

building for the proper use of the lands so taken or used.

Jurors shall examine premises proposed to be taken.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken and used, and after hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessments and to determine and appraise to the owner or owners, the value of the real estate so proposed to be taken or used, and the injury arising to them respectively, in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom, for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owners of such lands), as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

Jurors shall assess damages separately.

SECTION 12. The jurors shall assess the damages to every person separately, so that their return shall show how much is to be paid for each, and the amount shall be placed opposite their respective names.

If the land or buildings belong to different persons.

SECTION 13. If the lands or buildings belong to different persons, or be subject to lease, judgment or mortgage, or other incumbrance, or if there be any estate in it less than an estate in fee, to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively, from the proposed improvements.

Award of jurors shall be signed.

SECTION 14. The award of the jurors shall be signed by them and returned, together with the testimony taken, to the common council within the time limited in their order of appointment, and shall be final unless appealed from in the manner hereinafter provided, and the damages allowed by such award shall be a legal charge against the city.

SECTION 15. The land required to be taken or used for the purposes mentioned in this act shall

not be appropriated until the damages awarded to the owner thereof, shall be paid or tendered to the owner or his agent, or, in case said owner or agent cannot be found or is unknown, deposited to his or their credit, in some safe place of deposit, to be determined by the common council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have the power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains

Land shall not be appropriated until damages are tendered.

SECTION 16. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance shall be taken or used by virtue of this act, all the covenants, contracts, engagements or liabilities relating to the same or any part thereof shall, after the expiration of the time for appeal, as hereinafter provided, respectively cease and be absolutely discharged.

Covenants in land to cease.

SECTION 17. When only part of the lot or tract of land, or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrance shall be absolutely discharged as to the part thereof so taken, or used, but shall remain valid as to the residue thereof; and the rents, considerations, liens and payments reserved payable and to be paid for, in respect to the same, shall be so proportioned that the part thereof, justly and equitably payable for such residue thereof, and no more shall be paid or recoverable for, or in respect to the same.

When only a part is taken.

SECTION 18. The damages assessed on each separate lot or tract shall be paid, or tendered, or deposited as herein required within one year from the confirmation of such assessment and report, and if not so paid, tendered or deposited, all the proceedings in any such case as to any lot or tract on which they are so unpaid, shall be void.

Damages shall be tendered.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant or labor under disability, the judge of the circuit court of Brown county,

In case of minor.

or the county judge may, upon the application of the common council, or of such party by his next friend, appoint a guardian for such party, and all notices required by this act, shall be served upon such guardian in the same manner as if he were the party interested.

Jurors shall take an oath.

SECTION 20. The jurors mentioned in this act shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Either party may appeal.

SECTION 21. The city council, or any party interested may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of Brown county from the decision of said jurors so far as it affects the interests of said appellants. Notice of such appeal shall be filed by the appellant, with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct. If any party other than the common council shall file such notice of appeal, they shall, before the trial thereof, give a bond in such sum and with such sureties as shall be approved by said court, conditional to pay all costs of said appeal, if the appellant shall fail to obtain a more favorable judgment than the award appealed from.

In case the amount of damages is changed.

SECTION 22. In case the amount of damages awarded by the jurors shall be increased or diminished upon the final determination of the appeal, the city clerk shall attach to said award a copy of the final judgment therein, and such award shall be considered as to such difference amended thereby.

Survey of streets to be made when laid out.

SECTION 23. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed under the provisions above, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

SECTION 24. No street or alley, or part thereof, shall be vacated, except upon the petition of the owners of three-fourths of the front upon such street or alley in the block, in, or along which, such street or alley runs; but the boundaries of streets may be changed upon petition to the council by the parties interested. Vacating alleys

CHAPTER 6.

SECTION 1. The common council shall, at their first meeting for organization in each year, choose, by ballot, a street commissioner. Every street commissioner hereafter appointed by the common council. shall, before entering on the duties of his office, give a bond to the city of De Pere, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than fifteen hundred dollars, ($1,500) conditioned to render an account to the common council, whenever required by law or the ordinances of said city, or by vote of said council, to safely keep, account for, deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse or pay over as required by law or the ordinance of said city, all moneys that may come into his possession as such officer, to faithfully discharge the duties of said office. Street commissioner and his duties.

SECTION 2. Every street commissioner shall hold his office for the term of one year from the first Tuesday in April of the year in which he is appointed, and shall, on or before the first Monday in November, render an account under oath to the common council, showing the amount of money collected by him as such commissioner, from whom it was collected, showing the amount of money that has been expended, specifying the work for which it has been expended. Such an account shall be rendered as often as the common council shall require. Term of street commissioner.

SECTION 3. The street commissioner shall receive such compensation as the common council shall fix upon for his services, which may be by a per diem or per centage upon the tax collected and expended, as the common council shall determine, and his compensation shall be decided upon at the time of his appointment, and shall not thereafter be changed except in the manner Compensation of street commissioner.

heretofore prescribed for changing compensation of other officers.

Removal of street commissioner.

SECTION 4. The street commissioner shall hold his office for the the term as stated in section 5, unless sooner removed by the common council for cause which may by a vote of two-thirds of the aldermen declare his office vacant, after giving him due notice and a chance to be heard, and appoint his successor, who shall thereafter be entitled to all the emoluments, writs, records, books, papers, property and effects of every description in the hands of the person so removed.

Return of unpaid taxes.

SECTION 5. The street commissioner shall return all unpaid taxes, in the manner and form prescribed for such return by the overseer of highways in towns.

CHAPTER 7.

STREET IMPROVEMENTS.

Improvement of streets.

SECTION 1. The common council may cause any street or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least one-half the frontage of such street or part of street to be improved, or order any sidewalk or gutter on one side of a street to be built, on the petition of a majority of such owners, and of the owners of at least one-half of the frontage on such side; and may order any sidewalk or gutter previously built to be put in repair, or built, when necessary, without petition.

Street tax, how levied.

SECTION 2. For the purpose of so improving any street, or building, or repairing any sidewalk or gutter, the common council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of a street improved, or on the side thereof where only such sidewalk or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement as ordered, opposite such property to the center of the street, or such proportion thereof, not less than half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be so

assessed; in which case the remainder of such expense shall be paid from the city treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency.

To be delivered to the street commissioner.

SECTION 3. Whenever the common council shall levy any such tax as specified in the preceding section, they shall make out and deliver to the street commissioner of such city a list of the persons and a description of the property taxed, together with a warrant, signed by the mayor and clerk, for the collection and expenditure of such tax, and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice two weeks in some newspaper published in said city, and shall specify in such notice a time or times, not less than twenty days, nor more than forty days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials; provided, the labor and materials offered in payment of such taxes are such as may be required by the said street commissioner and done and furnished to his satisfaction.

Street commissioner to be provided with a book.

SECTION 4. The street commissioner shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner. The book containing the account so kept shall at all times, when required, be furnished for the inspection of the mayor or common council, and ten days before the expiration of his term of office shall be handed to the city clerk, to be filed in his office for the inspection of the tax payers of his district.

Certified list of unpaid taxes to be delivered to clerk.

SECTION 5. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to

the city clerk a certified list of the lots, pieces or parcels of lands in said city upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of such lots or parcels of land, and the said clerk shall add the said delinquent taxes to the next tax roll, opposite to the description of the proper lots, pieces or parcels of lands therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in said city.

Work on delinquent lots to be at expense of city.

SECTION 6. Whenever any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be reimbursed by such tax when collected.

Immediate repairs.

SECTION 7. Whenever the public convenience or safety shall require any sidewalk or gutter, in case of injury or defect, to be immediately repaired, and the cost of the repairs will not exceed the sum of five dollars ($5), the street commissioner may give written notice to the party subject to the tax for the repairs thereof, if known, and residing in said city, and if unknown and not residents thereof, then may post written notices in three or more public places in such city, that unless such sidewalk or gutter, therein to be specified, be repaired to the satisfaction of the street commissioner within three days thereafter, he will repair the same at the expense of the property; and if the same be not in such time repaired, such commissioner shall so repair and return the cost as a delinquent tax on such property, and the same shall be collected as other delinquent assessments, as hereinbefore provided.

Ornamental trees.

SECTION 8. The common council shall have power to require the owner of any lot or parcel of ground in the city to set out ornamental trees in the street or streets fronting on the same, and in default thereof to cause the same to be done, and to levy a special tax upon such lot or parcel of ground to pay the expense of the same.

CHAPTER 8.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within

which wooden buildings or buildings of other materials that shall not be considered fire proof, shall be erected, repaired or moved, and to direct that all and any buildings within the limits prescribed shall be made and constructed of such fire proof material, and in such a manner as they may ordain, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of value thereof, and to prescribe the manner of ascertaining such damages.

Building and construction of buildings, chimneys, etc.

SECTION 2. The common council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets and in such manner and times as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulation for the prevention and extinguishment of fires as the common council may deem expedient, and enforce the provisions of this chapter, and the ordinances under it, by suitable penalties.

Purchase fire engines.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such company to be disbanded, and to prohibit their meetings as such when disbanded. Each company

shall be officered and governed by its own by-laws: provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city. Every active member of any company in said city shall be exempt from serving on juries and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company shall have served therein for ten years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

Exempt from taxation.

Fire tax.

SECTION 4. The common council shall have power to raise a tax each year, not exceeding two mills on the dollar of the taxable property within said city, for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city, and the moneys arising therefrom shall be expended under the direction of the common council of said city for fire purposes.

CHAPTER 9.

PUBLIC SCHOOLS.

Regarding the public schools.

SECTION 1. All members of the school board now in office in the village of De Pere, shall hold their respective offices as members of the school board for the city of De Pere for the full term for which they were elected, and until their successors are elected and qualified in the manner hereinafter provided. Whenever a vacancy shall occur in said board, or when the term of any member thereof shall expire, the common council shall elect a school commissioner or commissioners from the city at large, to fill such vacancy for the unexpired term, or to take the place of the commissioner whose term is about to expire, as the case may be. The school commissioners elected under this act shall hold their office for three years, and until their successors are elected and qualified. At the regular meeting of said council in June, 1883, the said council, in addition to electing a commissioner to fill the vacancy that shall then occur by expiration of term of office, shall also elect two additional commissioners, one of whom shall hold office for one year, and one of whom shall hold office for two years, and thereafter said board of education shall consist of five members who shall be elected to hold office for

three years; it being hereby intended that the term of office of no more than two members of said board of education shall expire in any one year. The treasurer of the school district of the village of De Pere as now existing, shall continue to act as school treasurer of and for said city until the expiration of his term of office in June, 1885, and until his successor as such commissioner is elected and qualified, and up to the last mentioned date shall receive and disburse all school funds belonging to said city as hereinbefore he has received and disbursed all school funds belonging to said district. From and after said date the city treasurer shall receive, hold and disburse as a separate fund, all school money belonging to said city as provided in this act; provided, that in case a vacancy occurs in the office of school treasurer, prior to said June, 1885, the city treasurer shall thereupon receive, hold and disburse said school funds.

Board of education.

SECTION 2. The school commissioners elected under the provisions of this chapter shall form the board of education of the city of De Pere, and a majority of said board shall form a quorum for the transaction of business. It shall be the duty of the mayor and council to supply, by appointment, any vacancy which may occur from time to time in the number of said school commissioners, by resignation or otherwise.

City superintendent and his term of office.

SECTION 3. The school commissioners shall, at their first regular meeting in July, 1883, or within fifteen days thereafter, elect some suitable person having the necessary qualifications, as city superintendent of schools, whose term of office shall commence on the first Monday of August of the year in which he is elected, and who shall hold his office for three years and until his successor shall be elected and qualified, unless sooner removed by a two-thirds vote of all the members elect of the board of education for misconduct or other sufficient cause. And said school commissioners shall fill any vacancy in said office at any regular meeting.

President of board of education.

SECTION 4. The board of education shall, at its first regular meeting in each year, elect one of its members president, who shall preside at all meetings of the board, and preserve order and decorum thereat, and decide all questions of order, subject to appeal to the board. He shall countersign all

orders drawn by the secretary for the payment of teachers' and janitors' wages, and all other incidental and necessary expenses of said board of education. He shall declare all votes taken on questions coming before the board; provided, that on all questions requiring appropriation of money or the adoption of new text books, the votes shall be taken by ayes and noes, and on any other question the ayes and noes shall be called when any member shall request it; provided further, that in the absence of the president the board shall elect a president *pro tempore*.

Monthly meetings.

SECTION 5. The board of education shall have one regular meeting in each month, upon the first Monday, at such place as may be designated by them, and they may have special meetings at such other times as they may deem necessary, or when called together by the president; but no special meeting shall be legal, unless each member of the board shall have first been served with notice in writing of the time and place of said meeting.

Salary of city superintendent.

SECTION 6. The city superintendent of schools shall receive an annual salary of not more than one hundred and fifty dollars ($150), to be paid quarterly, the amount of which shall be determined from year to year, by the board of education, which salary shall be payable out of the school fund.

Duties of board of education.

SECTION 7. The duties of the board of education shall be as follows:

1. To elect at their regular meeting in July in the years when a vacancy shall occur, a city superintendent of schools; but if such election shall not then be had, the said superintendent shall be elected within fifteen days thereafter.

2. To decide upon the number of teachers to be employed, the grade of school to be kept by each, and the amount of salary to be paid to each, and to hire and make contracts with the teachers; and before any teacher shall enter upon his or her duties as such, he or she shall enter into a written contract, which contract shall be signed by such teacher, and by the board of education, or by some member thereof designated for that purpose by resolution of said board. Such contract shall be made in duplicate, and one copy thereof filed with the clerk, and the other delivered to such teacher.

3. To arrange and determine terms and vaca-

tions in all public schools; to establish uniformity in the school system, and to require and to secure uniformity of text books, and to adopt or reject text books at will.

4. To establish rules and regulations for the schools not in conflict with the constitution or laws of this state; but the mayor and council may, in their discretion, do away with, annul or abrogate any such rule or regulation by a two-thirds vote of the whole number of aldermen of the city.

5. To make contracts for all fuel, stationery and articles of furniture required for the schools, to make all necessary repairs on school houses, not exceeding one hundred dollars ($100) in value for any one school house; to make contracts for incidentals required for carrying on the school houses, such as lighting fires, sweeping school rooms, etc., and such contracts, when executed, shall be paid by orders drawn on the city treasurer, payable out of the school fund, which orders shall be signed by the president of the board of education, and countersigned by the clerk of said board.

6. To audit all claims and demands payable out of the school fund. The said board shall, annually, on or before the first day of November in each year, submit a statement to the mayor and common council, showing the amount of teachers' wages that have accrued and become due during the year, and the amounts of all other indebtedness accruing on contract or otherwise, that has been made by order of the board; and for that purpose they shall cause entries to be made in a book or books, to be provided by the city, of all contracts made with the teachers, and the amount of salary to be paid, and all other expenditures made or authorized by said board, at the time the same shall be made or authorized, which book or books shall be subject to inspection in the same manner as the records of the proceedings of said board; and they shall, at the same time, submit for the consideration of the common council, a statement of the estimates required for carrying on the schools for the ensuing year, specifying the amount required for teachers' wages and other items separately, and specifically. Nothing in this section contained shall prevent the mayor and common council

from taking into consideration the amount to be received from the state from the income of the school fund and the amount received from the county school tax during the ensuing year.

Building and repair of school buildings.

SECTION 8. Whenever repairs to a larger amount than one hundred dollars ($100) shall, in the opinion of the board, be required for any one school house, they shall cause a statement to be made, showing the repairs required, and an estimate of the cost thereof, to be laid before the mayor and council; and whenever, in its opinion, another school house or school houses shall be required, it shall cause estimates of the cost of a site for such house or houses, and a plan of the proposed building or buildings, together with the estimates of the cost of the same to be made, and shall submit the same for the consideration of the mayor and council, who shall forthwith take measures to raise a tax to defray the cost of such repairs or the erection of such building or buildings, and the purchase of a site or sites, unless there shall be a majority vote of the whole number of aldermen of the city against the same; in which case such proposed repairs shall not be made, nor shall such site or sites be purchased, or building or buildings be erected; and it shall be the duty of said board, in the name of said city, to enter into contract for making such repairs, or for the erection of such buildings, or for the purchase of such sites, whenever it shall be made to appear that the necessary tax for the same has been levied, or authorized by the mayor and council.

Teachers' and janitors' wages.

SECTION 9. It shall be the duty of the president and secretary of the board of education, to draw orders on the treasury, payable out of the school fund, for teachers' and janitors' wages, and all expenditures authorized by this act.

Shall have no interest in any contract.

SECTION 10. No member of the board of education shall have any interest, direct or indirect, in any contract made by said board, and every contract so made, in which any member of said board shall have such interest, shall be absolutely void.

Duties of city superintendent.

SECTION 11. The duties of the city superintendent shall be as follows:

1. To examine all the applicants for teachers' licenses in the branches taught in the public schools of said city, and, if approved, give them certificates authorizing them to teach in the city.

2. To annul a teacher's certificate for cause;

provided, that such teacher shall have the right of appeal to the board of education.

3. To visit each school department of said city at least once a month.

4. To report for the consideration of the board of education, such text books as he may think advisable and proper for the use of the schools; and to report such alterations therein, from time to time, as he may think most beneficial for the schools in said city.

5. To report to the board of education, at each regular meeting, relative to the condition of schools under his supervision, and particularly as to the average attendance at each school since the previous regular meeting; to make such recommendations as shall, in his judgment, conduce to their welfare, and to perform such other duties as may be required of him by the board.

6. He shall attend at the meetings of the board of education and act as secretary thereof, and there make any suggestion he may think advisable, relative to the government of the schools of said city.

7. To make such reports to the state superintendent, and at such times and in such manner as the law may require. He shall, between the first and tenth day of September in each year, make a statement of the number of children, male and female designated separately, over the age of four and under the age of twenty years, residing in said city, on the last day of August previous to the day of such report.

CHAPTER 10.

AUDITING ACCOUNTS.

All accounts must be audited before paid.

SECTION 1. No account or demand against the city, shall be paid, until it has been audited and allowed, and an order drawn on the treasury therefor. Every such account shall be made out by items, and verified by affidavit, indorsed or annexed, that the same is just, true and correct, and no part thereof paid (or, if paid in part, except as therein stated), and that said account has not been presented before. When an account shall have been audited, the clerk shall indorse on each account the word "allowed" or "disallowed" as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed,

if disallowed in part only. The minutes, of the proceedings of the council, shall show to whom, and for what purpose every such account was allowed, and the amount. Every such account allowed in whole or in part, shall, with the affidavit thereto, be filed with the clerk, and those of each year consecutively numbered, and have indorsed the number of the order issued in payment therefor; and the clerk shall take receipts for such orders.

Manner in which money may be borrowed.

SECTION 2. Neither the common council, nor any officer of the city, shall issue, at any time, a negotiable order, or borrow any money except in the manner and for the purposes expressly declared by statute or this act; but the common council may, in temporary necessity, by unanimous vote of the council, and not otherwise, borrow money in anticipation of the tax to be levied for the current year, not exceeding one per centum of the assessed valuation of the property in said city, according to the last assessment, and may give orders on the treasury, payable at a future date, therefor, with or without interest; but no such order shall be made payable at a later date than the first day of March following the date of issue of such order, and for the payment of any such order, the city tax for the same year, or a sufficient amount thereof, shall stand irrevocably pledged.

Property of citizens not to be levied on to satisfy city judgments.

SECTION 3. No real or personal property of the city, or any of its inhabitants, or of any individual or corporation therein, shall be levied on or sold by virtue of any execution, issued to satisfy any judgment against said city.

Actions against city cannot be maintainnd unless claim has been presented.

SECTION 4. No action shall hereafter be maintained by any person against the city of De Pere, upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim or demand to the common council of said city.

Right of appeal granted.

SECTION 5. When the claim of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of such council, to the circuit court of Brown county, by causing a written notice of such appeal, to be served on the clerk of said city, within thirty days after the making of such decision, and executing a bond to such city, with sufficient surety, to be approved by said

clerk, county judge, or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court.

Duty of clerk in case of appeal.

SECTION 6. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by the ordinance or resolutions of said common council, he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with its decision thereon, and shall file the same, together with the bond, and all papers in the case in his possession, with the clerk of the circuit court for the county of Brown, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Determination of council shall be final.

SECTION 7. The determination of the common council, disallowing in whole or in part, any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court, founded on such claim, unless an appeal be taken as hereinbefore provided, or the common council shall consent to the institution and maintenance of the action; provided, however, that when the council shall refuse or neglect to act upon a claim duly presented to it, this chapter shall not be construed as to prevent the institution and maintenance of an action by said claimant against said city.

CHAPTER 11.

FINANCES AND TAXATION.

Funds shall be under control of council.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the com-

mon council, and in no other manner; and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable, generally, out of any funds in the treasury belonging to the city. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

A majority vote required to pay a debt.

SECTION 2. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and nayes upon the journal of the council, whenever the same shall be asked by any one member, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act, and for the payment of indebtedness now existing. The common council shall have power to, and shall levy, annually, to defray the current expenses of said city, a sum sufficient for that purpose; provided, that the amount to be raised in any one year, for the general city purposes, other than state, county and school taxes, and interest on bonded indebtedness of said city, as authorized by law, exceed three per centum of the taxable property in said city, as shown by the last assessment.

Penalties to be paid into city treasury.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act, or any of the ordinances, by-laws, rules, and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become a part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city, shall be remitted or discharged by a vote of five of the aldermen elect.

All property subject to taxation.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers and perform the same duties as are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the

form of assessment rolls and more fully define the duties of assessors.

Laws governing assessors.

SECTION 5. The assessor elected by virtue of this act shall, in all things pertaining to his office, so far as practicable, be governed by the same laws as assessors in towns.

Board of review.

SECTION 6. The mayor, clerk and assessor shall constitute the board of review, and shall meet at the chambers of the common council on the first Monday in August, in each year, and shall proceed in all respects as town boards are by law required to proceed.

City regarded as a town for equalizing purposes.

SECTION 7. The county board of supervisors shall have the right to regard the city of De Pere as a town, in equalizing the assessment rolls of the several cities and towns in Brown county, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Instructions in regard to levying taxes.

SECTION 8. The said board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law, in relation to town or town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

City clerk shall make out tax roll.

SECTION 9. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, city or other purposes, and all delinquent taxes, if any, of previous years, and all special taxes levied by the common council since the making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land, or person named therein, which statement shall be called "the tax list of the city of De Pere," and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council.

Tax list to be evidence.

SECTION 10. The tax list made out and preserved as aforesaid, shall be *prima facie* evidence

in every court of record in this state, that every act or thing required by law to be done, relating to assessing or levying of taxes, from the election of officers to the completion of the tax list inclusive, has been done regularly, correctly, and as required by law.

Duplicate copies to de made.

SECTION 11. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and the said clerk shall, on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax list preserved in his office.

Respecting the collection of taxes.

SECTION 12. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive one per cent. fees upon all taxes paid to him before the tenth day of January, and three per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, which shall be in full for all services performed by said treasurer, under this act or the ordinances of the city.

List of delinquent taxes.

SECTION 13. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Brown county, a list of all lands, lots and personal property upon which taxes have not been paid; and shall also settle with and pay all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers; and all the provisions of chapter 49 of the revised statutes of 1878, and acts amendatory thereof, shall extend to, and may be enforced to collect any delinquent personal property tax.

County treasurer to sell delinquent lands.

SECTION 14. The county treasurer shall sell all delinquent lands and lots, returned from the city of De Pere, at the same time and in the same

manner as other delinquent lands are sold in the county.

Only directory.

SECTION 15. All the directions hereby given, except in section 9 of this chapter, for the assessing of lands and the levying, collecting and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Special taxes.

SECTION 16. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes, and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the common council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, it shall specify the amount to be raised, and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election.

In case there is no money in treasury.

SECTION 17. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council; thereupon the council shall direct its finance committee to examine the accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

State tax shall first be paid.

SECTION 18. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then county taxes; then judgments; then all special taxes in the order in which they were levied. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner provided by law.

Meeting to dispose of unfinished business.

SECTION 19. The common council shall meet on Monday evening, two weeks previous to the holding of the charter election, for the purpose of disposing of the unfinished business, and shall not thereafter, during its term of office, allow any bills against the city, but may anticipate and pro-

vide for the payment of salaries of officers for the balance of its term.

Investment of surplus funds.

SECTION 20. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interest and profits arising from such investment, shall belong to the city, and shall be accounted for in the same manner as other funds are accounted for; provided, however, that the provisions of this section shall in no manner apply to the school fund, which shall be held by the treasurer as a separate fund, and paid out only upon the proper order of the school board.

Bridge taxes.

SECTION 21. The common council may also, when occasion shall require, levy a special tax, not to exceed three mills on the dollar of the taxable property of said city, for the purpose of building or repairing bridges; such tax to be levied in the same manner, and collected in the same way, and at the same time as the general city taxes for that year.

CHAPTER 12.

ACTION TO RECOVER PENALTIES, ETC.

Penalties.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

How to begin actions.

SECTION 2. In all prosecutions for any violation of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in criminal cases, before justices of the peace under the general statutes of the state for the time being.

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

COUNTY OF BROWN, } ss.
City of De Pere. }

Form of summons.

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of De Pere:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, justice of the peace in and for said city, at my office in said city, on the ——— day of ———, A. D. 18—, at ——— o'clock in the ——— noon, to answer the city of De Pere, to the damage of said city, two hundred dollars or under.

Given under my hand, this ——— day of———, 18—. C. D., Justice of the Peace.

When returnable.

SECTION 4. Such summons shall be made returnable, and be served in the same manner as is now or hereafter may be prescribed by the laws of this state, for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereinafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons, and triable before justices of the peace.

SECTION 5. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

The city of De Pere against A. B., in justice court, before C. D., justice of the peace.

The plaintiff complains against defendant, for that the defendant, on the ——— day of ———, 18—, at the said city, did violate) section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law, or regulation of said city, describing it by its title), which said ——— is now in force. By reason of such violation an action hath accrued to the city of De Pere, to recover of the defendant the sum of ——— dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

Complaint for warrant.

SECTION 6. In all cases where oath is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

City of De Pere against A. B., before C. D., justice of the peace, ———, county of Brown—ss.

E. F., being duly sworn, on oath, complains to C. D., justice of the peace in and for the city of De Pere, in said county, that A. B., on the ——— day of ———, 18—, at said city, did violate (section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law or regulation of said city, describing it by its title), which said ——— is now in force, as this complainant verily believes, and prays that A. B. may be arrested, and held to answer to said city of De Pere therefor.

Sworn and subscribed to before me, this ——— day of ——— 18—. C. D.,

Justice of the Peace.

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated, in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form for warrant.

COUNTY OF BROWN, } ss.
City of De Pere, }

The state of Wisconsin to the sheriff or any constable of said county, and to the marshal or any policeman of the city of De Pere, greeting:

Whereas, ——— ——— has this day complained to me in writing, on oath, that A. B., on the ——— day of ———, 18—, at said city, did violate section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law or regulation of said city, (describing it by its title,) which said ——— is now in full force, as the complainant believes; therefore you are commanded to arrest the body of said A. B., and bring him before me forthwith, to answer to the city of De Pere on the complaint aforesaid.

C. D., Justice of the Peace.

Action of justice defined.

Upon the return of the warrant the justice shall proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with surety to be

approved by the court for his, her or their appearance, in such sum as the court shall direct; or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the lock-up in such city, or the common jail of Brown county, and shall be received and kept therein, the same as in criminal actions, except as modified by this act or the ordinances of said city. The complaint made as aforesaid, shall be the only complaint required; and the plea of "not guilty" shall put in issue all subject matter embraced in the action.

Printed copy to be evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence, on trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without prepayment of fees.

SECTION 8. Witnesses and jurors shall attend before the justice of the peace in all city and criminal suits, without the payments of fees in advance, or a tender thereof, upon process duly served, and in default thereof their attendance may be compelled by attachment.

Trial by jury granted.

SECTION 9. In city prosecutions, both plaintiff and defendant shall enjoy the right of trial by jury, as in civil actions in justices' courts, and the findings of the court shall be, "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suits; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, and a commitment in case it was commenced by warrant, and shall, in either case determine and enter upon his docket the length of time the defendant shall be imprisoned, for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF BROWN, } ss.
City of De Pere. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal or policeman of the city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of De Pere, on the ——— day of ———, 18—, recovered a judgment before the undersigned justice of the peace in and for said city, against ——— ———, for the sum of ——— dollars, together with ——— dollars and ——— cents, costs of suit, for the violation of section ——— of chapter ——— of this act, or section ——— of an ordinance or by-law or regulation of said city, (describing it by its title.) You are hereby commanded to levy distress of the goods and chattels of the said ——— ———, excepting such as the law exempts, and make sale thereof, according to law, to the amount of said sums, together with your fees, twenty-five (25) cents for this writ, and the same return to me within thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said ——— ———, and him convey and deliver to the keeper of the common jail of Brown county; and said keeper is thereby commanded to receive and keep in custody, in said jail, the said ——— ———, for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this ——— day of ———, 18—. C. D., Justice of the Peace.

Commitment. The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale, and return of writ.

Right of appeal granted. SECTION 10. Any defendant, feeling aggrieved by the judgment of a justice of the peace in any action commenced under the provisions of this act, may appeal from such judgment to the circuit court of the county of Brown, in the manner provided by the general laws of this state; such defendant shall, within twenty-four hours, enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court, and abide the judgment of the court therein. The justice, from whose judgment an appeal shall be taken,

shall make a special return of the proceedings had before him, and shall forthwith cause the summons, or warrant, and return, together with the proceedings, and a copy of the entries in his docket in the action, together with the recognizance, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Appeal to stand for trial.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived, in the manner provided by law, in said circuit court, and the next term thereof, after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to, or by either party.

Final judgment.

SECTION 12. If the judgment of the justice shall be affirmed, or if, upon the trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law, or regulation, under which he, or they, are prosecuted, and enter judgment against him, or them, and their sureties, for such penalty, together with the costs in both courts; and enforce the same by execution as in actions of tort.

Shall not work incompetency.

SECTION 13. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Village ordinances to remain in force.

SECTION 14. All ordinances and regulations now in force in the village of De Pere, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

Village actions to be assumed by city.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several ordinances or acts incorporating De Pere village, shall be vested in, and prosecuted by the corporation hereby created.

How to serve process against city.

SECTION 16. When any suit or action shall be commenced against said city, the service thereof shall be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk of said city so served, forthwith to inform the common council thereof, or to take such demand or

proceeding as by the ordinance or resolution of said council, may be in such cases provided.

Penalties etc., to be paid into treasury.

SECTION 17. All penalties and forfeitures recovered and collected under, and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city.

General bridge and other laws to be in force.

SECTION 18. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, are hereby extended to, and shall include all of the bridges extending across Fox river, and shall apply to any wilful or malicious damage which may be done to them, by any person or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges by any vessel or water craft, or by the master or any person in command thereof, such vessel or water craft may be proceeded against by the said city, under the law to provide for the collection of demands against boats and vessels which do now, or may hereafter exist.

Adoption of village plats and additions.

SECTION 19. The plats of the village of De Pere, and the additions thereto, are hereby adopted as the plats of the city of De Pere, and additions thereto, and the real estate included in said plats, may be hereafter described by lots and blocks as they appear on said plats, and by describing the plats as "the original plat of the village, now city of De Pere," or "the plat of Dickinson's addition to the village, now city of De Pere," and in like manner with the plats of other additions, or in any other manner, so as to describe the land with reasonable certainty.

Poor laws to be in force.

SECTION 20. All laws in relation to the support of the poor in towns shall apply and be in force in said city, except, that at the first meeting of the council in each year, or as soon thereafter as may be, the council shall appoint some suitable person as poor commissioner, who shall have charge of the poor fund of said city, subject to the control of the council.

Village property to be transferred to city.

SECTION 21. All moneys, property, effects and credits belonging to the present village of De Pere shall belong to the city of De Pere, and shall be transferred to the proper officers of said city by

the person in charge of the same, as soon as such officers shall be elected and qualified.

Village lawful debts to remain.

SECTION 22. Any lawful debt, claim, demand or right of action against the present village of De Pere, shall be and become a lawful debt, claim, demand or right of action against the city of De Pere, and any and all irregularities that may exist by virtue of re-incorporating said village, and the election or appointment of any and all officers, and the acts of any and all officers or pretended officers of said village, shall in no way invalidate or be set up as a defense by the said city of De Pere, or any person or persons in any action upon any bond issued by said village, or any other debt, claim and demand against said village.

Official duties.

SECTION 23. All duties herein required of the mayor, aldermen, common council or clerk in regard to elections, shall be performed so far as may be necessary, by the present president, trustees, board of trustees and clerk of the village of De Pere, in regard to the first election and the organization of the city government under this act.

Law extended.

SECTION 24. Chapter 245 of the general laws of the state of Wisconsin for the year 1881, is extended so as to include and be made applicable to the said city of De Pere.

Instructions in regard to making out tax roll for 1883.

SECTION 25. The city clerk of said city is hereby authorized and empowered to enter upon the tax roll of said city for the year 1883, in a separate column as an additional tax, opposite to each and every lot, tract, piece, or parcel of land in said city, the amount of taxes thereon, which remain unpaid, for the years 1881 and 1882, as returned to the county treasurer of Brown county, by the treasurer of the village of De Pere, and the same shall be collected by the treasurer of said city, the same as other taxes upon the roll, and in case of non-payment, the same shall be returned to the county treasurer of Brown county, and be sold therefor, the same as other property. All amounts of money heretofore paid by any and all persons for taxes, for said years 1881 and 1882, upon each and every piece of property in said village of De Pere, shall be in full for all taxes thereon for said years, and the said payment shall be a perpetual bar against any and all suits for the recovery of any and all sums of money paid therefor.

First election, when held.

SECTION 26. The first election for said city shall be held for the first ward, at the engine house; for

the second ward, at the store building of Mary A. Call, on Broadway, in said city. The acting president of the village of De Pere shall, by and with the consent of the board of trustees of said village of De Pere, appoint three inspectors and two clerks for each ward, who shall act as inspectors and clerks of election of the said precincts at all elections, till their successors are appointed, as is provided, and their powers and duties shall be the same as is now provided by law.

Repeal.

SECTION 27. No general law, contravening the provisions of this act, shall be considered as repealing, amending, or modifying the same, unless such purposes be expressly set forth in such law.

Public act.

SECTION 28. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all the courts of this state.

SECTION 29. This act shall take effect and be in force from and after its passage and publication.

Approved March 27, 1883.

[No. 420, A.] [Published March 29, 1883.]

CHAPTER 175.

AN ACT to incorporate the city of Sparta.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER I.

CITY AND WARD BOUNDARIES.

Boundaries, corporate name, and manner of holding elections.

SECTION 1. All that district of country described as follows: Commencing at the center of the northeast quarter of section number thirteen (13), in township number seventeen (17) north, of range number four (4), west of the fourth (4th) meridian; running thence west on the one-eighth ($\frac{1}{8}$) line to the center of the northwest quarter of section number fourteen (14), in said township; thence south on the one-eighth ($\frac{1}{8}$) line to the center of the southwest quarter of section number twenty-three (23), in said township; thence east on the one-eighth ($\frac{1}{8}$) line to the center of the southeast quarter of section number twenty-four (24), in said town; thence north on the one-eighth ($\frac{1}{8}$) line to the place of beginning, making an area of thirty-six (36) forties, or fourteen hundred and forty (1440) acres, according to government survey, and

being in the town of Sparta, Monroe county, shall hereafter be known and designated as "the city of Sparta," and the inhabitants residing, or who may hereafter reside within the limits of said city, are hereby constituted a body corporate, by the name of "the city of Sparta," and by that name they and their successors forever hereafter shall, and may have perpetual succession, and shall be in law capable of suing and being sued, and pleading and being impleaded, answering and being answered unto, defending and being defended, in their corporate name, in all courts and places, and in all suits whatsoever, with power of purchasing, receiving, holding, occupying and conveying real and personal estate, and shall have a common seal, and may change the same at pleasure; provided, that the question of the adoption of this act as a charter of such city shall be submitted to the electors of such territory before such charter shall become operative. For the purpose of determining such question, the qualified electors residing in such territory shall meet on Monday, the second day of April, 1883, at ten o'clock A. M., of that day, at such place as the inspectors of such election shall appoint, and vote by ballot upon such question. The president and any two trustees of the village of Sparta are hereby appointed inspectors of such election, and the village clerk of Sparta is appointed clerk thereof. Such inspector shall give notice of such election, by publishing notice thereof in one or more papers printed in the village of Sparta, or by posting the same in two or more public places in each ward of the proposed city, at least five days before such election. Such notice shall specify time, place and object of such election, the time of opening and closing the polls. At such meeting the polls shall be opened at 10 o'clock A. M., and kept open until 5 o'clock P. M., when they shall be closed. In case of vacancy in the board of inspectors, the electors present shall choose *viva voce*, from the qualified electors of such territory, inspectors to fill such vacancies. Such inspectors shall preside over and conduct such election, and all the laws of this state applicable to the election of village officers shall apply to all the proceedings thereat, so far as they are consistent with the provisions of this act. Every elector residing in such territory, and qualified to vote for

village officers in said village of Sparta, may vote at such meeting by a ballot having thereon the word "yes," or the word "no," according as he shall be in favor of, or opposed to the incorporation of the city under this act. If the majority of ballots cast at such election have thereon the word "no," this act shall be inoperative and void. If a majority of such ballots have thereon the word "yes," this act shall be of full force and effect. The said inspectors shall make and certify returns of the result of such election, and file duplicates of the same in the office of the county clerk of the county of Monroe, and the town clerk of the town of Sparta, and the village clerk of the village of Sparta, and such returns shall be evidence of the facts therein stated, and the regularity of all proceedings in relation to such election.

Ward boundaries.

SECTION 2. The said city shall be divided into four wards as follows: The portion lying east of the center line of Water street, and north of the center line of Franklin street, continued to the east boundary line of said city, shall constitute the first ward; the portion lying west of the center line of Water street and north of the center line of Main street continued to the west boundary line of said city shall constitute the second ward; the portion lying east of the center line of Water street and south of the center line of Franklin street continued to the east boundary line of said city shall constitute the third ward; the portion lying west of center line of Water street and south of the center line of Main street continued to the west boundary line of said city, shall constitute the fourth ward.

Annual elections, when and how held.

SECTION 3. The annual election for city and ward officers shall be held on the second Tuesday of April in each year, at such place as the common council shall designate and provide, and the polls shall be kept open from nine o'clock A. M., until five o'clock P. M., but an adjournment may be made from twelve o'clock M. to one o'clock P. M., by notice thereof given at the opening of the polls. The city clerk shall give at least six days notice of such election, stating time and place of holding the same, the officers to be elected thereat, and also of any special action to be taken or asked at such meeting, by causing the same to be printed in one or more papers published in said city of Sparta, or by posting copies of such notice

in two or more public places in each ward of said city. If notice be given by newspaper publication as aforesaid, the city clerk shall file a copy of the paper containing such notice in his office; if given by posting notices as aforesaid, the city clerk shall attach to the original notice his certificate, stating the time of posting notices, and number posted in each ward, and the places of posting the same, and file such original notice with such certificate attached in his office.

Corporate authority, in whom vested.

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the mayor, in one board of aldermen, consisting of eight members, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be created under this act.

CHAPTER II.

ELECTIVE OFFICERS, ETC.

Elective officers.

SECTION 1. The elective officers of said city shall be a mayor, treasurer, assessor, two justices of the peace, one police justice and one constable for the city at large, and two aldermen for each ward. All other officers necessary for the proper management of the affairs of said city, shall be elected by the common council.

Terms of office.

SECTION 2. All elective officers, except aldermen, justices of the peace and police justice, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and have qualified; said aldermen, justices of the peace and police justice shall hold their respective offices for two years, excepting as hereinafter provided.

Elective officers shall be qualified electors.

SECTION 3. All elective officers shall be qualified electors of said city, and the mayor, assessor and aldermen shall be freeholders in said city.

Legal voters, and challenging votes.

SECTION 4. All persons qualified to vote at general elections for state officers, and who shall have been residents of said city for at least ten days next preceding any election, shall be legal voters for any officers required to be elected by this act, and if any person's right to vote be challenged, or if the inspectors of election shall have reason to believe that any person presenting himself to vote does not possess the qualification of an elector

under this act, the inspectors shall decide upon the challenge, or upon the qualifications of the person as an elector, in the same manner as is required by law at general elections.

Inspectors of election.

SECTION 5. Any four members of the common council of said city shall preside at and be the judges and inspectors of every election held under this act. The clerk of said city, hereinafter provided for, together with three suitable persons, electors of said city, appointed by the inspectors, shall be the clerks of every such election. In case of the absence of the city clerk, the inspectors may also appoint an elector of said city to act as such clerk at such election. The clerks and inspectors shall take and subscribe an oath in the same form and to the same effect, as near as may be, as the oath required to be taken and subscribed by clerks and inspectors of general election under the laws of this state. The city clerk shall keep a list or lists of the names of persons voting, as hereinafter provided, and all elections under this act shall be conducted in the same manner, as far as may be, in accordance with the provisions of this act, as general elections are conducted under the laws of this state, and the plurality of votes shall in all cases decide the election.

Ballot boxes.

SECTION 6. The common council of said city shall provide four ballot boxes, numbered one, two, three and four, to correspond with the wards aforesaid, to be used at all elections under this act.

Elections shall be by ballot.

SECTION 7. All elections by the people shall be by ballot, on which the names of all persons voted for shall be written or printed, and when any alderman or supervisor to represent the said several wards of said city in the common council, or in the county board of supervisors are to be elected at any election, the ballot shall designate the number of the ward from which such alderman or supervisor is to be elected. At each annual election the inspectors of election shall cause four (4) poll lists to be made, and numbered one, two, three and four, to correspond with the wards hereinbefore provided for, and the inspectors of election, at the opening of the polls, shall designate which of the four (4) clerks of election, hereinbefore provided for, shall have charge of the poll list for each of the said wards respectively. Every person, when he presents his ballot, shall

give his name and the number of the ward in which he resides, and the clerk of election, who has charge of the poll list of the ward in which he resides, shall enter his name on the list, numbered so as to correspond with the number of the ward of which said person is a resident. The ballot of each elector shall be deposited in the box numbered, to correspond with the ward wherein he resides, and no ballot which shall be deposited in a box, other than the one corresponding in number to the ward wherein the person named in such ballot for alderman or supervisor resides, shall be counted. Immediately after the closing of the polls, the ballots in each box shall be counted separately by the inspectors and clerks, and the person named on the ballots in any box, for alderman, and the one named thereon for supervisor, who shall have received a plurality of all the votes cast by the electors of the ward, corresponding in numbers with the box, shall be declared elected alderman and supervisor of such ward, and the persons who shall receive a plurality of all the votes of the electors of said city for the offices of mayor, assessor, police justice, constable and city treasurer, shall be declared elected to such officers [offices] respectively, and the two persons who shall receive a plurality of all the votes of the electors of said city for the office of justice of the peace, shall be declared elected. When two or more candidates of an elective office shall receive the highest and an equal number of votes for the same office, the election shall be determined by the casting of lots, in the presence of the common council, and at such time and in such manner as the common council shall direct.

Penalty for illegal voting.

SECTION 8. If a person who is not a qualified voter of said city shall wilfully and knowingly vote at any election, or if any person duly qualified shall wilfully and knowingly give his name as belonging to a ward in which he does not reside, and shall willingly and knowingly deposit or cause to be deposited his ballot in a box not corresponding in number to the ward in which he resides, or if any person shall vote more than once at any election, he shall forfeit and pay a sum not exceeding fifty dollars ($50.00) and not less than twenty-five dollars ($25.00) to be recovered in the same manner as other fines and penalties are recovered under this act, and shall also

incur all the pains and penalties provided by any general law of this state for illegal or fraudulent voting. If any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall wilfully omit to write down the names of every voter as he votes, or shall wilfully make untrue or incorrect counts or tallies of votes, such inspector or clerk shall be liable to indictment or punishment by information, and on conviction thereof, shall forfeit and pay a sum not exceeding five hundred dollars ($500.00) or less than one hundred dollars. ($100.00).

Canvass of votes.

SECTION 9. Immediately after the counting of the ballots at any election under this act, the inspectors and clerks of election shall, under their hands, make a written statement of the result of such election, and attach thereto the oaths of the inspectors and clerks, and the four poll lists kept at such elections, and shall cause the same to be filed in the city clerk's office, and the said statement shall be recorded in the records of said city by the city clerk; and the said statement shall be *prima facie* evidence in all courts and before all tribunals of the statements therein contained. Immediately after filing such statement, the city clerk shall make out and deliver to each person who appears by such statement to have been elected to any office, a certificate of election under his hand and the seal of said city.

Election of aldermen.

SECTION 10. At the first election held under this act, two aldermen shall be elected for each ward, one to serve one year and one to serve two years, to be determined by the words, "for one year" after the name of one alderman voted for, and "for two years" after the name of the other alderman to be voted for; and thereafter at each annual election, one alderman from each ward shall be elected to serve for two years; and the first election under this act shall be held at such place as shall be designated and provided by the president and trustees of the village of Sparta, any four of which shall act as inspectors of such election, appoint clerks thereof, prescribe the manner of conducting such election, and shall canvass and make returns of the result, as provided by this act, and the general laws of this state; and the village clerk of Sparta shall give the

notice thereof, as required by this act; and all duties required by this act of the common council in regard to elections shall be performed so far as may be necessary, by the said president and trustees of the village of Sparta, and the clerks appointed by them in regard to the first election, and the organization of the city government under this act.

First regular meeting of council.

SECTION 11. At the first regular meeting of the common council in each year, or as soon thereafter as may be, the mayor-elect shall, by and with the consent of a majority of the aldermen-elect, appoint a suitable person for city clerk and fix his compensation.

Power to expel members, etc.

SECTION 12. The common council shall have power, for due cause, to expel any of their number. The mayor shall have power to suspend the marshal or any other police officer or watchman appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being. All officers appointed by the mayor or common council, may be removed at the pleasure of the council, by a two-thirds vote of the aldermen elect.

Vacating office.

SECTION 13. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as herein provided.

Vacancies to be filled by election.

SECTION 14. Whenever a vacancy shall occur in the office of mayor, police justice or justice of the peace, such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy, shall hold his office and discharge the duties thereof, for the unexpired term, and with the same right and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Special election to fill vacancy.

SECTION 15. Special elections to fill vacancies, or for any other purpose, shall be held and con-

ducted in the same manner and the returns thereof shall be made in the same form and manner, as general or annual elections, and within such time as may be prescribed by ordinance.

Election of supervisors.

SECTION 16. A supervisor to represent each ward of said city in the county board of supervisors of Monroe county, shall be annually elected at the time and place of the election of aldermen for said city. Each supervisor so elected, shall hold his office for one year, and shall be, when so elected, a resident of the ward for which he is elected. No supervisor shall receive any compensation from the city for any of his services unless such service be specially authorized by the common council and provision for the payment of same be made by them.

CHAPTER III.

OFFICERS AND THEIR POWERS.

Duties of officers and their powers.

SECTION 1. Every person elected or appointed to any office under this act, except justices of the peace and police justice, shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed by the constitution, and file the same, duly certified by the officer taking the same, with the city clerk, and the marshal, constables and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Sparta a bond with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, liabilities or exemptions, and said bond shall contain such penal sum and such conditions as the council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond with at least two nor more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount, over and above all debts, liabilities or exemptions, and the aggregate of such shall at least exceed the penal sum specified in such bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office, any officer re-

fusing or neglecting to give the same. Justices of the peace and police justice shall qualify in the same manner as in towns, except that their bonds shall be approved by the common council.

Duties of mayor.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties; he shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police force of the city; and in case of riot or other disturbance he may appoint as many special or temporary constables as he may deem necessary. He shall have the authority to remove the marshal for inefficiency or neglect of duty, and appoint some one to fill the vacancy, but such removal and appointment shall be subject to the ratification or approval of a majority of the common council. The mayor shall have a vote in the council only in case of a tie.

Election of president.

SECTION 3. At the first meeting of the council after their [its] election in each year, it shall proceed to elect, by ballot, one of its members president, and in the absence of the mayor, the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of mayor. In case both the mayor and president shall be absent from any meeting of the common council, it shall proceed to elect one of their [its] number a temporary presiding officer, who for the time being shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of mayor, shall be styled acting mayor, and any acts performed by them shall have the same force and validity as if performed by the mayor, but the president of the council or temporary presiding officer as acting mayor, shall sign no warrant or other proceeding whatever, which the mayor theretofore has refused to sign.

Duties of clerk.

SECTION 4. The clerk shall keep the corporate seal, and all papers and records of the city, and keep a full record of the proceedings of the common council, at whose meetings it shall be his duty to attend. Copies of any and all books, papers, instruments or documents filed in his office, and transcripts from the records of the proceedings of the common council, certified by him under the corporate seal of the city, shall be evidence in all courts in like manner as if the originals were produced; he shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose, and perform all necessary acts required of town clerks. Whenever the clerk and his deputy shall be absent from any meeting, the common council may appoint a clerk *pro tem.*, who, for the time being, shall be vested with the powers and duties of the clerk. The city clerk shall have power and authority to administer oaths and affirmations, and may appoint a deputy in writing, under his hand, and file such appointment in his office, and such deputy in case of absence or disability of the clerk, shall act in his place.

Duties of treasurer.

SECTION 5. The treasurer shall perform such duties and exercise such powers, as may be lawfully required of him by the ordinances of said city, or the laws of this state. He shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in suitable books to be provided for that purpose, and in such manner as the common council shall direct. He shall report to the common council, as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties, and be subject to the same liabilities as treasurers of towns.

Duties of marshal.

SECTION 6. The city marshal shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and

processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city or laws of this state, may pursue and serve all writs and processes in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, to apprehend, with or without warrant, any person in the act of committing any offense against any ordinance of said city or laws of this state, and forthwith bring such person before competent authority for examination; and for such service he shall receive such fees as are allowed by law to constables for like service. He shall do and perform all such duties as may lawfully be enjoined on him by the mayor, common council or ordinances of said city. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties. The marshal shall be appointed by the common council as soon as they [it] shall organize, and they [it] may, at the time of his appointment, or afterwards, allow him such further compensation than above described, as they [it] may deem prudent.

Duties of city attorney.

SECTION 7. The common council may, at its first meeting, elect a city attorney, to conduct the law business of the corporation, but the council may omit such election, and when necessary, provide or employ such an attorney, or counsel as it may desire. The city attorney if there be one, shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the common council or any of its committees. He shall keep a docket of all cases to which the city may be a party in any court, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to the inspection of the mayor or any member or committee of the common council. It shall also be the duty of the city attorney, when required by the common council, to draft all ordinances, bonds, contracts, leases, conveyances and other instruments in writing necessary to the business of the city government, and to perform such other duties, as may be prescribed by the charter and ordinances of said city. He shall receive such

reasonable compensation as may be agreed upon for services rendered.

Other duties may be required of any officer.

SECTION 8. The common council shall have power from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them [it] where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix by resolution, the salary which shall be paid to the clerk and assessor for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected, neither shall extra compensation be granted, except by unanimous vote of the council, approved by the mayor. For the year 1883, such compensation shall be fixed by the common council within ten days after it shall organize, and the notice of the first election held under this charter may be given by the acting village clerk, and the inspectors thereof may be appointed by the persons acting as the board of trustees of the present village of Sparta.

Penalty for refusal to deliver to successor.

SECTION 9. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

No officer shall be interested in any job or contract.

SECTION 10. No mayor or alderman shall be a party to, or interested in, any job or contract with the city, and any contract in which they, or either of them, may be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the mayor or aldermen interested in the same, or either or any of them.

SECTION 11. The mayor or acting mayor, and

each and every alderman, justice of the peace, police justice, marshal, constable and watchman shall be officers of the peace, and may command the peace and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purpose, may command the assistance of all bystanders and other citizens; and if any person, bystander or citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of five dollars ($5); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings. Officers of the peace enumerated.

SECTION 12. All actions brought to recover any penalty or forfeiture under this chapter, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All fines and penalties collected by any justice in such cases, shall be paid over to the city treasurer, except those for refusing to pay poll-tax, which shall be paid over on demand to the street commissioner. Each justice of the peace and police justice shall report to the common council on the first Monday in January, April, July and October in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned. Actions to be under corporate name of city.

SECTION 13. Any officer may resign his office by filing his written resignation with the clerk, and such resignation shall take effect, and his office shall be deemed vacant, from the time such resignation shall be accepted by the common council. Resignations.

SECTION 14. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made to the city, nor shall any officer, required to give bonds as aforesaid, enter upon the discharge of the duties of his office until such bond shall have been filed or approved, as by this act provided. No city officer shall be accepted as surety on any bond.

CHAPTER 4.

THE COMMON COUNCIL, ITS POWERS AND DUTIES.

SECTION 1. The mayor and aldermen shall con-

Style of ordinances.

stitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Sparta do ordain." The common council shall hold their [its] first annual meeting each year, on the third Monday in April, and thereafter stated meetings upon the first Monday of each and every month, during the year. A majority of the aldermen shall constitute a quorum.

Special meetings, how called.

SECTION 2. The common council shall hold special meetings by order of the mayor or written request of two aldermen, by notice to each of the members, to be served personally or left at their usual places of business or abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members, and to enforce its rules, to punish by fine, by a vote of two-thirds of its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds of its members, may expel any member for cause.

Council to have control of finances.

SECTION 3. The common council shall have the management and control of the finances and of all the property of the city; and shall likewise in addition to the powers herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce and health thereof, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws, and such ordinances, rules and by-laws are hereby declared to be and to have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-laws:

To license shows, saloons, etc.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard tables, bowling saloons, and to provide for the abatement and removal of all nuisances, under the ordinances or

at common law, and may grant licenses for and regulate groceries, taverns, victualing houses and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in, or vending spirituous, vinous or fermented liquors, shall not be less than seventy-five dollars ($75.00) nor more than three hundred dollars ($300.00) per annum. Such licenses shall not be granted for a longer term than one year, and shall run from the first day of May and to expire on the first day of May; provided, however, where any such license is applied for after that date, the same be granted to expire on the first day of May next following, on the applicant paying *pro rata* therefor.

Gambling.

2d. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and playing of cards, dice, or other games of chance for the purpose of gaming, in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors or drinks, unless duly licensed by the common council.

Riots and noise.

3d. To prevent any riots, noise, disturbance or disorderly assemblages; to suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Unwholesome places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses and gunpowder.

5th. To direct the location and management of slaughter houses and markets, and to regulate the storage, safe-keeping and conveying or [of] gunpowder or other combustible materials.

Encumbering of streets.

6th. To prevent the encumbering of streets, sidewalks, lanes, alleys and bridges with carriages, carts, wagons, sleighs, boxes, lumber, firewood, logs or any other material or substance whatever, and to prevent the loading and unloading of lumber, logs, shingle, bolts or other material or substances, of whatever name or kind, upon the bridges in said city.

7th. To prevent horse racing, and immoderate

Horse racing, swimming, etc. riding or driving in the streets and upon any and all bridges, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle. 8th. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.

Dogs. 9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Unwholesome substances. 10th. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and, on default, to authorize the removal thereof by some competent officer at the expense of such person or persons.

Omnibuses, hacks, etc. 11th. To regulate, license and suppress omnibuses, hacks, cabs, drays, carts, and to regulate the charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city.

Boards of health. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and return the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Bread. 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding and driving on sidewalks. 14th. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.

Fire-arms and crackers. 15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered, by the common council, dangerous to the city or any property therein, or annoying to the citizens thereof.

Restrain drunkenness. 16th. To restrain drunkards, immoderate drink-

ing or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

17th. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to make rules and ordinances for the government and regulation of the police of said city. Runners and police.

18th. To establish public markets and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations. Public markets.

19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions. Provisions.

20th. To regulate the place and manner of the weighing, measuring and selling of fuel, hay and lime, and to appoint suitable persons to superintend and conduct the same. Hay and fuel.

21st. To compel the owners or occupants of buildings or grounds to remove snow, ice, dirt, ashes, or rubbish from the sidewalk, street or alleys opposite thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health may direct; and on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants. Snow and dirt.

22d. To regulate, control and prevent the landing or passing through said city, of persons from cars or stages, who are infected with contagious or infectious diseases or disorders, and to make such disposition of such persons and their property as to preserve the health of said city. Infectious diseases.

23d. To license auctioneers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers or transient dealers, or the payment of a license, or both, as the common council shall determine. Auctioneers.

24th. To appoint the city clerk, watchmen and policemen and prescribe their duties. Watchmen and policemen.

SECTION 4. All laws, ordinances, regulations

Horse racing, swimming, etc. riding or driving in the streets and upon any and all bridges, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle. 8th. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the distraining, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.

Dogs. 9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Unwholesome substances. 10th. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides or skins of any kind, and, on default, to authorize the removal thereof by some competent officer at the expense of such person or persons.

Omnibuses, hacks, etc. 11th. To regulate, license and suppress omnibuses, hacks, cabs, drays, carts, and to regulate the charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city.

Boards of health. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and return the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Bread. 13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding and driving on sidewalks. 14th. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animals on the sidewalks in said city, or in any way doing any damage to such sidewalks.

Fire-arms and crackers. 15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered, by the common council, dangerous to the city or any property therein, or annoying to the citizens thereof.

Restrain drunkenness. 16th. To restrain drunkards, immoderate drink-

ing or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

17th. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to make rules and ordinances for the government and regulation of the police of said city. Runners and police.

18th. To establish public markets and to make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations. Public markets.

19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions. Provisions.

20th. To regulate the place and manner of the weighing, measuring and selling of fuel, hay and lime, and to appoint suitable persons to superintend and conduct the same. Hay and fuel.

21st. To compel the owners or occupants of buildings or grounds to remove snow, ice, dirt, ashes, or rubbish from the sidewalk, street or alleys opposite thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health may direct; and on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants. Snow and dirt.

22d. To regulate, control and prevent the landing or passing through said city, of persons from cars or stages, who are infected with contagious or infectious diseases or disorders, and to make such disposition of such persons and their property as to preserve the health of said city. Infectious diseases.

23d. To license auctioneers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts received from sales by auctioneers or transient dealers, or the payment of a license, or both, as the common council shall determine. Auctioneers.

24th. To appoint the city clerk, watchmen and policemen and prescribe their duties. Watchmen and policemen.

SECTION 4. All laws, ordinances, regulations

How ordinances shall be passed.

and resolutions shall be passed by an affirmative vote of a majority of all the members of the common council, and all ordinances, before the same shall be in force, shall be signed by the mayor, and shall be published once a week, for two successive weeks, in the newspaper selected by the council, printed in said city, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk, in books to be provided for that purpose; but before the said laws, ordinances or regulations shall be recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

When to take effect.

SECTION 5. No ordinance or resolution, requiring the signature of the mayor, shall take effect until seven days after the passage of the same, unless sooner approved in writing by the mayor, or acting mayor for the time being.

Veto power defined.

SECTION 6. The mayor shall have power to veto any ordinance, act or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the common council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections, and the clerk shall thereupon call a special meeting of the council in the manner provided by section 2 of this chapter, to consider such veto and objections; and in case the council shall not, within one week after the receipt of such objection or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of five of the aldermen elect, the same shall be null and void. If the mayor shall not return any ordinance, act or resolution so presented to him within seven days after the passage thereof, it shall take effect in the same manner as if he signed it.

Rescinding votes.

SECTION 7. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be

present as large a number of aldermen as were present when such vote was taken.

Shall not bar or hinder suits.

SECTION 8. The power conferred upon the said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, or houses of ill-fame, are hereby declared and shall be deemed a public or common nuisance.

Council shall audit accounts.

SECTION 9. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal, and all other officers and agents of the city, at such time as it may deem proper, also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired; and the common council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his duties, in pursuance of this section, or shall wilfully neglect or refuse to render his accounts, or present his moneys, books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council may order suits and proceedings at law against any officer or agent of said city who may be delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all such settlements and adjustments.

Appointment of standing committees.

SECTION 10. The mayor, at the first regular meeting of the common council in each year, shall appoint standing committees as follows: On streets and sidewalks, on bridges, on accounts, on finances and taxation, on ordinances, on fire department and public buildings and grounds, from the common council; and also a board of health and fire wardens from the members of the common council or otherwise, and such other committees as the ordinances of said city or common council may determine.

No compensation.

SECTION 11. No compensation or salary shall be paid to the mayor or any alderman of said city, except for services as inspectors of election.

Contracts to be let to lowest bidder.

SECTION 12. All contracts for work ordered by the common council of said city, in which the

amount thereof shall exceed the sum of one hundred dollars ($100), shall be let to the lowest reasonable and responsible bidder who shall have complied with the requirements hereinafter set forth. All bids and proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city of Sparta in the penal sum equal to the amount of the bid which bond shall be signed by the bidder and by a responsible surety or sureties, who shall justify that he is worth the sum mentioned in such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditioned that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; and in case of failure said bond may be prosecuted in the name of the city, and judgment recovered thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action.

CHAPTER 5.

OPENING OF STREETS, ALLEYS, ETC.

Opening streets and alleys.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to enlarge or extend the same, and to use the land in said city for the purpose of constructing and repairing sewers and drains, as follows: Whenever ten or more freeholders residing in the city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the city for the purpose of constructing and repairing sewers and drains, giving the course and distances, metes and bounds of the lands proposed to be taken or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioner, the common council shall, if it deem it necessary to take and use such lands for the purpose specified in such petition, cause notice of such application to be given to the owner or owners of such land, in case such owner or owners, shall reside in the county of Monroe, and to the occupant or occupants

of such land, if any there be, which notice may be served personally or by leaving the same at the place of business or at the residence of such owner or owners, occupant or occupants; or if a portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in a public newspaper printed in the city of Sparta, for four successive weeks, at least once in each week.

What notice shall contain

SECTION 2. Such notice shall state that on a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge of the county of Monroe, or a court commissioner in and for said county, and if the latter, stating his name and residence, for the appointment of six jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition, and if so, to assess damages; but the officer to whom such application is made must not be an owner or otherwise interested in any of the lands proposed to be taken or used.

Appointment of jurors.

Jurors shall view premises.

SECTION 3. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner, as the case may be, shall thereupon appoint as jurors six reputable freeholders, residents of the city, and not interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within thirty days from the date thereof, to view such premises, to be specified in said precept, and to make return under their hands to the common council, whether in their judgment it is necessary to take or use said premises for the purpose specified in such application.

In case any juror is disqualified.

SECTION 4. If any juror so appointed, shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award, the judge or court commissioner shall appoint others in their place, and a memorandum of such substitution shall be indorsed on the precept.

Jurors shall view premises in a body.

SECTION 5. The said jurors, having first taken the oath hereinafter provided for, shall, at such

times as they may agree, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jurors shall make a report.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceeding, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take or use the premises in question for the public use; which said report, testimony and precept shall be returned to the common council within the time limited therein.

Council shall enter an order confirming report.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council shall, if it approves such report, enter an order among its proceedings confirming said report, and directing the same jurors, within one month thereafter, or such further time as may be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, and to assess and return within the time limited, such damages to the common council; and after the jurors shall have made their report, as to the taking or use of any lands or premises under this act, and the same have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve, in ascertaining the amount of compensation as above.

In case there is a building on premises.

SECTION 8. If there should be any building standing, in whole or in part, upon the lands to be taken, the jurors, before proceeding to make assessments, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to remove.

Ten days notice to be given.

SECTION 9. At least ten days personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all persons interested

shall be given by publication in a newspaper published in said city for three successive weeks; such notice shall specify the building and the award of jurors. It shall also require the parties interested to appear by a day to be therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or of their intention to remove such building at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the common council may allow.

In case owner refuses to take building at value.

SECTION 10. If the owner refuse to take the building at the value to remove, or fails to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days notice of such sale. The proceeds shall be paid to the city treasurer, for the use of the owner, and shall thereafter be paid over to the owner on his application therefor; provided, it shall be necessary to remove such buildings for the proper use of the lands so taken or used.

Jurors shall examine premises proposed to be taken.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken and used, and after hearing such testimony as may be offered, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessments and to determine and appraise to the owner or owners, the value of the real estate so proposed to be taken or used, and the injury arising to them respectively, in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom, for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owners of such lands), as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings.

SECTION 12. The jurors shall assess the dam-

Jurors shall assess damages separately.

ages to every person separately, so that their return shall show how much is to be paid for each, and the amount shall be placed opposite their respective names.

If the land or buildings belong to different persons.

SECTION 13. If the lands or buildings belong to different persons, or be subject to lease, judgment or mortgage, or other incumbrance, or if there be any estate in it less than an estate in fee, to such person or interest respectively, the injury done shall be awarded to the person entitled thereto by the jurors, less the benefits resulting to such interests respectively, from the proposed improvements.

Award of jurors shall be signed.

SECTION 14. The award of the jurors shall be signed by them and returned, together with the testimony taken, to the common council within the time limited in their order of appointment, and shall be final unless appealed from in the manner hereinafter provided, and the damages allowed by such award shall be a legal charge against the city.

Land shall not be appropriated until damages are tendered.

SECTION 15. The land required to be taken or used for the purposes mentioned in this act, shall not be appropriated until the damages awarded to the owner thereof, shall be paid or tendered to the owner or his agent, or, in case said owner or agent cannot be found or is unknown, deposited to his or their credit, in some safe place of deposit, to be determined by the common council; and then, and not before, such lands may be taken or used and appropriated for the purposes required, and the lands shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds heretofore opened or laid out, except in cases where the lands are only used for the purpose of sewers and drains, and then, in that case, the said city shall have the power to go upon said premises at any and all times for the purpose of examining and repairing said sewers and drains.

Covenants shall cease on land taken.

SECTION 16. When the whole of any lot or tract of land or other premises under lease or other contract or incumbrance, shall be taken or used by virtue of this act, all the covenants, contracts, engagements or liabilities relating to the same or any part thereof, shall, after the expiration of the time for appealing as hereinafter provided, respectively cease and be absolutely discharged.

SECTION 17. When only part of the lot or tract

of land, or other premises so under lease, or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrance shall be absolutely discharged as to the part thereof so taken, or used, but shall remain valid as to the residue thereof; and the rents, considerations, liens and payments reserved, payable and to be paid for, in respect to the same, shall be so proportioned that the part thereof, justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, or in respect to the same.

Damages shall be tendered.

SECTION 18. The damages assessed on each separate lot or tract shall be paid, tendered, or deposited as herein required, within one year from the confirmation of such assessments and report, and if not so paid, tendered or deposited, all the proceedings in any such case as to any lot or tract on which they are so unpaid, shall be void.

In case of minor.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant or labor under disability, the judge of the circuit court of Monroe county, or the county judge may, upon the application of the common council, or of such party by his next friend, appoint a guardian for such party, and all notices required by this act, shall be served upon such guardian in the same manner as if he were the party interested.

Jurors shall take an oath.

SECTION 20. The jurors mentioned in this act shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. If any juror shall neglect or refuse to serve after the return of the precept above mentioned, the county judge or court commissioner shall have power to appoint new jurors in place of those who shall so neglect or refuse to serve.

Either party may appeal.

SECTION 21. The city council, or any party interested may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of Monroe county from the decision of said jurors so far as it affects the interests of said appellants. Notice of such appeal shall be filed by

the appellant, with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct. If any party, other than the common council, shall file such notice of appeal, they shall, before the trial thereof, give a bond in such sum and with such sureties as shall be approved by said court, conditional to pay all costs of said appeal, if the appellant shall fail to obtain a more favorable judgment than the award appealed from.

In case the amount of damages is changed.

SECTION 22. In case the amount of damages awarded by the jurors shall be increased or diminished, upon the final determination of the appeal, the city clerk shall attach to said award a copy of the final judgment therein, and such award shall be considered (as to such difference) amended thereby.

Survey of streets to be made when laid out.

SECTION 23. Whenever any streets, alleys or public grounds shall be laid out or extended, or sewers or drains constructed under the provisions above, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

Vacating alleys

SECTION 24. No street or alley, or part thereof, shall be vacated, except upon the petition of the owners of three-fourths of the front upon such street or alley in the block, in, or along which, such street or alley runs; but the boundaries of streets may be changed upon petition to the council by the parties interested.

Apply to unplatted lands only.

SECTION 25. The foregoing provisions shall not apply to unplatted lands. Roads or streets may be laid out by the common council through unplatted lands, in the same manner as roads are laid out by supervisors in towns.

Only directory.

SECTION 26. All the foregoing directions given in this chapter shall be deemed only directory, and no errors, irregularity or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall in any way affect the validity of the proceedings.

CHAPTER VI.

POLL TAX.

Poll tax.

SECTION 1. The common council of said city shall have, and it is hereby granted power to tax annually each male inhabitant within the corporate lim-

its of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents ($1.50), to be denominated a poll tax, and to be appropriated to the improvement of streets, roads, alleys and cross walks in said city.

Poll tax list.

SECTION 2. On or before the 20th day of May in each year, the city clerk shall make out a list of the names of all male persons over the age of twenty-one, and under the age of fifty years, liable to pay such poll tax, with the amount thereof set opposite to each person's name, and submit the same to the common council for correction. When such list is correctly made out, and on or before the 1st day of June in each year, the board shall by order (to be signed by the mayor and clerk and annexed thereto) direct the same to be delivered forthwith to the treasurer for collection. The treasurer shall forthwith proceed to the collection of such tax, and shall demand the same once of each person named in the list, and if any person neglects to pay the same for two days thereafter, then such treasurer shall, in the name of the city, sue for and collect such tax with fifty per centum damages on the same, with costs of suit, before a justice of the peace of such city, or police justice, and in default of payment of such judgment, execution shall issue against the defendant as in cases of tort, and the first process in such action shall be by civil warrant; provided, the council may, by resolution, cause the said poll list to be placed in the hands of the street commissioner to be collected, and the said street commissioner shall have the same authority to collect and receipt for such tax as the treasurer, and shall account for such taxes by him collected in the same manner as for other moneys coming into his hands by virtue of his office And the treasurer or street commissioner, while said list is in his hands for collection, may put upon the same the names of all such persons liable to such tax as may have been omitted therefrom, who shall then be liable, the same as if their names were originally placed in such list.

Street commissioner and his duties.

SECTION 3. The common council shall, at their first meeting for organization in each year, choose by ballot a street commissioner who shall, in addition to the collection of the poll tax, as above provided, under the direction of the common council, expend the same on the streets, bridges, cross-

walks and highways in said city, and the common council may, by resolution, direct the expenditure of not to exceed one-third of the poll tax upon the highways leading into said city outside of the corporate limits.

Shall give bond.

SECTION 4. Every street commissioner hereafter appointed by the common council, shall, before entering on the duties of his office, give a bond to the city of Sparta, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than fifteen hundred dollars ($1500), conditioned to render an account to the common council, whenever required by law or the ordinances of said city, or by vote of said council, to safely keep and account for, and deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse or pay over, as required by law, or the ordinance of said city, all moneys that may come into his possession as such officer, and to faithfully discharge the duties of said office.

Term of street commissioneer.

SECTION 5. Every street commissioner shall hold his office for the term of one year from the third Tuesday in April of the year in which he is appointed, and shall, on or before the first Monday in November, render an account under oath to the common council, showing the amount of money collected by him as such commissioner, and from whom it was collected, and showing the amount that has been expended, specifying the work for which it has been expended. Such an account shall be rendered as often as the common council shall require.

Compensation of street commissioner.

SECTION 6. The street commissioner shall receive such compensation as the common council shall fix upon for his services, which may be by a per diem or per centage upon the tax collected and expended, as the common council shall determine, and his compensation shall be decided upon at the time of his appointment, and shall not thereafter be changed except in the manner heretofore prescribed for changing compensation of other officers.

Removal of street commissioner.

SECTION 7. The street commissioner shall hold his office for the term as stated in section 5, unless sooner removed by the common council for causes which may by a two-thirds vote of the aldermen, declare his office vacant, after giving him due notice and an opportunity to be heard, and appoint

his successor, who shall thereafter be entitled to all the emoluments, writs, records, books, papers, property and effects of every description in the hands of the person so removed.

Return of unpaid taxes.

SECTION 8. The street commissioner shall return all unpaid taxes in the manner and form prescribed for such return by the overseer of highways in towns.

Survey to be made.

SECTION 9. The common council may, at any time, cause a new and accurate survey to be made of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks, and may cause to be established such permanent landmarks as it may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk, and recorded in the office of the register of deeds of the county of Monroe.

Surveys to be prima facie evidence.

SECTION 10. The surveys and landmarks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Grades of all streets to be established.

SECTION 11. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Monroe county, and should the grade so established, be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city to the owner of any lot or parcel of land, or tenement, which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained shall be so construed as to prevent the street commissioner of the said city from ordering or causing to be done, the grading of any street to a temporary grade, to be established by such commissioner.

Grading of streets.

SECTION 12. The common council may cause any street, or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized, or otherwise improved, or any sidewalk or gutter to be built, upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of

the owners of at least one-half the frontage of such street, or part of street to be improved, or order any sidewalk or gutter on one side of a street to be built, on the petition of a majority of such owners, and if [of] the owners of at least one-half of the frontage on such side; and may order any sidewalk or gutter previously built, to be put in repair, or build, when necessary, without petition.

Tax to be levied for repair of streets, etc.

SECTION 13. For the purpose of so improving any street or building, or repairing any sidewalk or gutter, the common council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of street improved, or on the side thereof where only such sidewalk or gutter is to be built, and upon the owners thereof a tax sufficient to pay the expense of constructing such improvement as ordered, opposite such property to the center of the street, or such proportion thereof, not less than half, as they shall deem justly assessable to such property, if they shall think the whole ought not to be so assessed; in which case the remainder of such expense shall be paid from the city treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency.

List to be delivered to street commissioner for collection.

SECTION 14. Whenever the common council shall levy any such tax as specified in the preceding section, it shall make out and deliver to the street commissioner of such city, a list of the persons and a description of the property taxed, together with a warrant, signed by the mayor and clerk, for the collection and expenditure of such tax, and thereupon the street commissioner shall notify the persons named in such tax list, by publishing a notice two weeks in some newspaper published in said city, and shall specify in such notice a time or times, not less than twenty days, nor more than forty days from the date thereof, when the persons charged with taxes in such list may pay their taxes in labor, materials or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor

or materials; provided, the labor and materials offered in payment of such taxes are such as may be required by the said street commissioner, and done and furnished to his satisfaction.

Street commissioner to be provided with a book.

SECTION 15. The street commissioner shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount received and disbursed by him, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner. The book containing the account so kept shall at all times, when required, be furnished for the inspection of the mayor or common council, and ten days before the expiration of his term of office shall be handed to the city clerk, to be filed in his office for the inspection of the tax payers of said city.

Certified list of unpaid taxes to be delivered to clerk.

SECTION 16. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to the city clerk a certified list of the lots, pieces or parcels of land in said city upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of such lots or parcels of land, and the said clerk shall add the said delinquent taxes to the next tax roll, opposite to the description of the proper lots, pieces or parcels of land therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in said city.

Work on delinquent lots to be at expense of city.

SECTION 17. Whenever any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be reimbursed by such tax when collected.

Immediate repairs.

SECTION 18. Whenever a sidewalk or gutter shall be out of repair, and so remain for the space of twenty-four hours, which, in the opinion of the street committee, will not cost to exceed the amount of five dollars ($5.00), in front of any one lot to repair the same, it shall be authorized and it is hereby made his duty to cause the same to be immediately repaired; and when the same is completed he shall make out an itemized bill of the costs of such repair, specifying the lot and

block, or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Sparta for payment, and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land to pay the same, in the same manner as special taxes are levied for the construction of sidewalks and gutters. In case the owner of such lot, piece or parcel of land does not reside in the city of Sparta, the said commissioner shall return said account to the common council, with his certificate stating that fact; and the council shall thereupon levy a special tax to pay the same in the manner in this section provided.

Ornamental trees.

SECTION 19. The common council shall have power to require the owner of any lot or parcel of ground in the city, to set out ornamental trees on the street or streets fronting on the same, and on default thereof to cause the same to be done, and to levy a special tax upon such lot or parcel of ground to pay the expense of the same.

CHAPTER VII.

FIRE DEPARTMENT.

Fire limits.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of other material, that shall not be considered fire proof, shall be erected, repaired or moved, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of such fire proof material, and in such a manner as they may ordain, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of value thereof, and to prescribe the manner of ascertaining such damage.

SECTION 2. The common council shall have

power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and times as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire, all idle and suspected persons, and to compel bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulation for the prevention and extinguishment of fires as the common council may deem expedient, and enforce the provisions of this chapter, and the ordinances under it, by suitable penalties.

Building and construction of buildings, chimneys, etc.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such company to be disbanded, and to prohibit their meetings as such when disbanded. Each company shall be officered and governed by their own by-laws; provided such by-laws be not inconsistent with the laws of this state, or with the ordinances and regulations of the city. Each active member of any company in said city shall be exempt from serving on juries, and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company shall have served therein for five years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

Purchase fire engines.

SECTION 4. The common council shall have power to raise a tax each year, not exceeding two mills on the dollar of the taxable property within

Tax for fire purposes.

said city, for fire purposes, the same to be assessed and collected in the same manner as the general tax of said city, and the moneys arising therefrom shall be expended under the direction of the common council of said city for fire purposes.

CHAPTER VIII.

SCHOOLS.

Regarding the public schools.

SECTION 1. The joint school district number one of the towns of Sparta and Angelo, now embracing the village of Sparta, and a part of the towns of Sparta and Angelo, shall not be affected by this act, and the management of school matters shall remain the same as heretofore.

CHAPTER IX.

MISCELLANEOUS PROVISIONS.

Division of town property.

SECTION 1. It is hereby made the duty of the common council of said city, and the board of supervisors of said town of Sparta, to meet together at some convenient place, on before the first Monday of May, 1883, upon notice given by either body, and if possible, agree upon some just, fair and equitable settlement or adjustment and division of the property, money, credits, duties, liabilities, obligations and every other matter or thing, made necessary by the organization of said city out of the territorial limits of the town of Sparta; and said common council of said city and said board of supervisors of the town of Sparta, shall meet annually, on the first Monday of May in each and every year, and make a just, equitable and fair division of the amount of bonded indebtedness then due or to become due, for the then existing year, whether of principal or of interest, and shall allot and set off to said city the amount of such proportionate amount of principal and interest, as should in justice and in equity be paid by said city; and shall also set off and allot to said town of Sparta, such proportionate share and amount of such principal and interest, as should in justice and in equity be paid by said town. In determining such proportion so as to be paid by said town and city, the said supervisors and the said common council shall take the last preceding respective assessment rolls of the said city, and of the said town, and allot to said

city and town respectively, the amount of bonded indebtedness due or to become due that year, to be paid by each in proportion as the assessed valuation of such city bears to the entire value of said city and town.

In case the council and board are unable to agree.

SECTION 2. If the common council of said city and board of supervisors of said town, shall be unable to agree upon an honorable, just and fair settlement or adjustment and division, as provided in the preceding section, then it is hereby made the duty of the circuit judge of the circuit court, in and for the county of Monroe, upon application made to him by either of said bodies, five days' notice having been previously given to the other body, to appoint three commissioners, one to be a resident of said city, one of said town, and one to reside outside of both city and town, who shall have power, and it is made their duty, as soon as may be after their appointment, and filing with the clerk of the circuit court in and for said county of their oaths, to faithfully and fairly adjust and settle all matters of dispute between said city and town, as hereinbefore mentioned, to examine into and fairly, equitably and justly make a division of all property, moneys, credits and property owned by said city or any part thereof, in common with said town; make a full and complete settlement or adjustment of all matters between said city and town, arising or growing out of the formation of said city out of the territorial limits of said town, and especially of the indebtedness of said town, any portion of which said city ought to pay, and in order to make such a settlement, adjustment and division as herein contemplated, the said commissioners shall make use of, and shall use as a basis of such settlement and adjustment, and shall be therein governed by the assessment roll of said town of Sparta for the year 1882. The said commissioners shall, as soon as possible, make their award in writing, and file the same in the clerk of the court's office of said county, which shall be final and conclusive between the parties.

Adjustments of amounts.

SECTION 3. Any and all amounts found as aforesaid to be owing by said city to any portion of the territory, outside of the city which comprises a part of the town of Sparta, from which said city was formed, shall be paid by said city to the proper officers authorized to receive and re-

ceipt for the same. But if it shall be found upon such settlement that there is any amount due said city from any portion of territory, outside of said city limits, which was an organization from which said city was formed, that portion of said territory so owing said part of said city, shall pay the amount to the city treasurer, and in case any portion of the territory so indebted shall fail, neglect or refuse to pay the amount thereof so found to be due, the city treasurer of said city shall proceed to collect the same in the manner as is now provided by the laws of this state, for the collection of debts against towns, cities and villages.

Connection between city and town to cease.

SECTION 4. The connection between the town of Sparta, and that part of said town included within the city limits for all town purposes, is dissolved. The duties now and hereafter imposed upon supervisors and other town officers, so far as they relate to the city of Sparta, shall be performed by the aldermen, mayor and other officers of said city, except as herein otherwise provided.

Use of county jail.

SECTION 5. The use of the jail of Monroe county, until otherwise provided, shall be granted to said city for the confinement of persons or offenders, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe keeping and delivery the said sheriff shall be responsible, as in other cases.

Electors of town may hold meetings in city

SECTION 6. The electors of the town of Sparta shall have the privilege to hold all town meetings, and all general and special elections at such place in the city of Sparta as they may determine, and the officers of said town of Sparta may transact all the town business, and keep all town records in said city, and with like effect as if held or done or kept in the town of Sparta.

Paupers.

SECTION 7. The paupers of said city shall be removed to the poor house of the county of Monroe, by the county poor superintendents, in like manner as they are removed from the several towns in said county, and the present system for the care and control of the poor in said county, shall in no wise be interfered with or affected by this act.

Appropriation.

SECTION 8. The common council shall have power to appropriate a sum not exceeding five hundred dollars ($500.00) to any public purpose that may be deemed proper, but no such appro-

priation shall be made unless ordered by a two-thirds vote of all the aldermen elect.

Village plats adopted by city.

SECTION 9. The plats of the village of Sparta, and the additions thereto, are hereby adopted as the plats of the city of Sparta, and additions thereto, and the real estate included in said plats may be hereafter described by lots and blocks as they appear on said plats as "the original plat of the village, now city of Sparta," or "the plat of Bard's addition to the village, now city of Sparta," and in like manner with plats of other additions, or in any other manner so as to describe the land with reasonable certainty.

Failure to hold election shall not abolish corporation.

SECTION 10. If any election by the people or common council shall, for any cause, not be held at the time or in the manner prescribed, or if the council shall fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization may be had at any subsequent day by order of the mayor, and if any of the duties enjoined by this act, or the ordinances, by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done and performed, the common council may appoint another time at which said act may be done and performed.

Jurisdiction of police justice.

SECTION 11. The police justice shall have sole and exclusive jurisdiction of all offenses against the provisions of this charter, and the ordinances, by-laws and police regulations of the common council of the city, and in cases of contempt the police justice shall have the same powers and authority as justices of the peace. He may administer oaths and take acknowledgments the same as justices of the peace. The police justice shall be entitled to receive for his services the same compensation in fees, as is allowed by law to justices of the peace for similar services, and such further compensation as the common council may allow and prescribe. In case of the absence, inability or sickness of the police justice, the mayor, by warrant, may authorize any justice of the peace within the city to perform the duties of police justice. Appeals and writs of *certiorari* may be taken from the police justice in the same manner as from justices of the peace.

Police justice may hold office of justice of the peace.

SECTION 12. The police justice, by reason of his office, is not thereby disqualified for holding the

office of justice of the peace. The jurisdiction of the justices of the peace of the city of Sparta shall be co-extensive with the county of Monroe.

Employment of prisoners sanctioned.

SECTION 13 If the mayor of the city shall, at any time, deem it for the interest of the city, he may employ and work the prisoners so committed outside of the jail or yard at labor on the public grounds, streets or alleys of said city, and may cause them to be secured in such a manner as, in his judgment, will prevent their escape, and the keeper or custodian of the common jail of said county, shall, upon the order of the mayor of said city, deliver the prisoner or prisoners in such order named and described, to the keeping and custody of such person or persons in said order directed, and receive and securely confine such prisoner or prisoners, when returned by such person or persons as aforesaid, and said order shall remain good and be in force until revoked by the mayor or common council of said city.

CHAPTER X.

AUDITING ACCOUNTS.

All accounts must be audited before paid.

SECTION 1. No account or demand against the city, shall be paid, until it has been audited and allowed, and an order drawn on the treasury therefor. Every such account shall be made out by items, and verified by affidavit, indorsed or annexed, that the same is just, true and correct, and no part thereof paid (or, if paid in part, except as therein stated), and that said account has not been presented before. When an account shall have been audited, the clerk shall indorse on each account the word "allowed" or "disallowed" as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council, shall show to whom, and for what purpose every such account was allowed, and the amount. Every such account allowed in whole or in part, shall, with the affidavit thereto, be filed with the clerk, and those of each year consecutively numbered, and have indorsed the number of the order issued in payment therefor; and the clerk shall take receipts for such orders.

SECTION 2. Neither the common council, nor any officer of the city, shall issue, any time, or

negotiable order, or borrow any money except in the manner and for the purpose expressly declared by statute or this act; but the common council may, in temporary necessity, by unanimous vote of the council, and not otherwise, borrow money in anticipation of the tax to be levied for the current year, not exceeding one per centum of the assessed valuation of the property in said city, according to the last assessment, and may give orders on the treasury, payable at a future date, therefor, with or without interest; but no such order shall be made payable at a later date than the first day of March following the date of issue of such order, and for the payment of any such order, the city tax for the same year, or a sufficient amount thereof, shall stand irrevocably pledged. Manner in which money may be borrowed.

SECTION 3. No real or personal property of the city, or any of its inhabitants, or of any individual or corporation therein, shall be levied on or sold by virtue of any execution, issued to satisfy any judgment against said city. Property of citizens not to be levied on to satisfy city judgments.

SECTION 4. Neither the said city, nor any officer within said city, shall be liable for any damage that may happen by reason of any defect or insufficiency in any sidewalk, street, highway or bridge in said city, unless the street commissioner or common council shall have first had actual notice of such defect or insufficiency, and reasonable time thereafter to repair the same or place the same in good order. Damages by defective sidewalk.

SECTION 5. No action in tort shall lie or be maintained against the city of Sparta, unless a statement in writing, signed by the person injured, or claiming to be injured, of the wrong and time, place and circumstances thereof, and amount of damages claimed shall be presented to the common council within thirty days after the occurring or happening of the tort alleged. Actions against city cannot be maintained unless claim has been presented.

SECTION 6. Action in tort for injury to the person shall not lie or be maintained against said city, unless through notice and permission by the person claiming injury, the mayor or common council has been enabled by a physician of his or their appointment, to make personal examination of the alleged injury within thirty days, after the time of its infliction, and until the amount of damages is adjusted, such examination may be Actions in tort.

repeated as often as required by the mayor or common council.

The same. SECTION 7. No action shall hereafter be maintained by any person against the city of Sparta, upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim or demand to the common council of said city.

Right of appeal granted. SECTION 8. When the claim of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of such council, to the circuit court of Monroe county, by causing a written notice of such appeal, to be served on the clerk of said city, within thirty (30) days after the making of such decision, and executing a bond to such city, with sufficient surety, to be approved by said clerk, county judge, or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court.

Duty of clerk in case of appeal. SECTION 9. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by the ordinance or resolutions of said common council, he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with its decisions thereon, and shall file the same, together with the bond, and all papers in the case in his possession, with the clerk of the circuit court for the county of Monroe, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Determination of council shall be final. SECTION 10. The determination of the common council, disallowing in whole or in part, any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court, founded

on such claim, unless an appeal be taken as hereinbefore provided, or the common council shall consent to the institution and maintenance of the action; provided, however, that when the council shall refuse or neglect to act upon a claim to it, this duly presented chapter shall not be construed as to prevent the institution and maintenance of an action by said claimant against said city.

CHAPTER XI.

FINANCES AND TAXATION.

Funds shall be under control of council.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner; and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable, generally, out of any funds in the treasury belonging to the city. All orders shall be payable to the person in whose favor they may be drawn, or to the bearer thereof.

How debts contracted.

SECTION 2. No debt shall be contracted against the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and nayes upon the journal of the council, whenever the same shall be asked for by any one member, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act, and for the payment of indebtedness now existing. The common council shall have power to, and shall levy, annually, to defray the current expenses of said city, a sum sufficient for that purpose; provided, that the amount to be raised in any one year, for the general city purposes, other than state, county and school taxes, and interest on bonded indebtedness of said city, as authorized by law, exceed three per centum of the taxable property in said city, as shown by the last assessment.

Penalties to be paid into city treasury.

SECTION 3. All forfeitures and penalties accruing to the city for a violation of this act, or any of the ordinances, by-laws, rules, and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become a

part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city, shall be remitted or discharged except by a vote of six of the aldermen elect.

All property subject to taxation.

SECTION 4. All property, real or personal, within the city, except such as may be exempt by the laws of the state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers and perform the same duties, as are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors.

Laws governing assessors.

SECTION 5. The assessor elected by virtue of this act shall, in all things pertaining to his office, so far as practicable, be governed by the same laws as assessors in towns.

Board of review.

SECTION 6. The mayor, clerk and assessor shall constitute the board of review, and shall meet at the chambers of the common council on the first Monday in August, in each year, and shall proceed in all respects as town boards are by law required to proceed.

City regarded as a town for equalizing purposes.

SECTION 7. The county board of supervisors shall have the right and shall regard the city of Sparta as a town, in equalizing the assessment rolls of the several cities and towns in Monroe county, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Instructions in regard to levying taxes.

SECTION 8. The said board of supervisors may levy a tax or taxes, as now is or may hereafter be provided by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law, in relation to town or town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

SECTION 9. Upon receiving the statement of

the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose, or upon a copy thereof, a complete statement of the several taxes levied for state, county, city or other purposes, and all delinquent taxes, if any, of previous years, and all special taxes levied by the common council since making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land, or person named therein, which statement shall be called "the tax list of the city of Sparta," and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council. City clerk shall make out tax roll.

SECTION 10. The tax list made out and preserved as aforesaid, shall be *prima facie* evidence in every court of record in this state, that every act or thing required by law to be done, relating to assessing or levying of taxes, from the election of officers to the completion of the tax list inclusive, has been done regularly, correctly, and as required by law. Tax list to be evidence.

SECTION 11. Immediately after making out the tax list aforesaid, the clerk shall make out a duplicate copy thereof, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments specified in said duplicate copy of the tax list, in the manner provided by law; and the said clerk shall, on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax list preserved in his office. Duplicate copies to be made.

SECTION 12. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive one per cent. fees upon all taxes paid to him before the tenth day of January, and three per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, which shall Respecting the collection of taxes.

be in full for all services performed by said treasurer, under this act or the ordinances of this city.

List of delinquent taxes.

SECTION 13. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Monroe county, a list of all lands, lots and personal property upon which taxes have not been paid; and shall also settle with and pay all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers; and all the provisions of chapter 49 of the revised statutes of 1878, and acts amendatory thereof, shall extend to, and may be enforced to collect any delinquent personal property tax.

County treasurer to sell delinquent lands.

SECTION 14. The county treasurer shall sell all delinquent lands and lots, returned from the city of Sparta, at the same time and in the same manner as other delinquent lands are sold in the county.

Only directory.

SECTION 15. All the directions hereby given, except in section nine (9) of this chapter, for the assessing of lands and the levying, collecting and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Special taxes.

SECTION 16. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes, and other objects of public utility; but no such tax shall be levied unless the same shall first be recommended by the common council, and afterwards submitted to a vote of the people and approved by them. Whenever the council shall recommend such a tax, it shall specify the amount to be raised, and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election.

In case there is no money in treasury.

SECTION 17. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council; thereupon the council shall direct its finance committee to examine the

accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

State tax shall first be paid.

SECTION 18. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then county taxes; then judgments; then all special taxes in the order in which they were levied. Delinquent returns shall be received by the county treasurer in payment of county taxes in the manner provided by law.

Meeting to dispose of unfinished business.

SECTION 19. The common council shall meet on Monday evening, two weeks previous to the holding of the charter election, for the purpose of disposing of the unfinished business, and shall not thereafter, during its term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of its term.

Investment of surplus funds.

SECTION 20. The council shall have power to direct that all surplus funds belonging to the city, not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interest and profits arising from such investment, shall belong to the city, and shall be accounted for in the same manner as other funds are accounted for; provided, however, that the provisions of this section shall in no manner apply to the school fund, which shall be held by the treasurer as a separate fund, and paid out only to the school district treasurer.

Bridge taxes.

SECTION 21. The common council may also, when occasion shall require, levy a special tax, not to exceed three mills on the dollar of the taxable property of said city, for the purpose of building or repairing bridges; such tax to be levied in the same manner, and collected in the same way, and at the same time as the general city taxes for that year.

CHAPTER XII.

ACTION TO RECOVER PENALTIES, ETC.

Penalties.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be law-

ful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act, or the section of the ordinances, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

How to begin actions.

SECTION 2. In all prosecutions for any violation of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in criminal cases, before justices of the peace under the general statutes of the state for the time being.

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF MONROE, } ss.
City of Sparta. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Sparta.

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, a justice of the peace in and for said city, at my office in said city, on the ——— day of ———, A. D., 18—, at ——— o'clock in the ——— noon, to answer the city of Sparta, to the damage of said city, two hundred dollars ($200) or under.

Given under my hand, this ——— day of ——— 18—. C. D. (title of officer.)

When returnable.

SECTION 4. Such summons shall be made returnable and served in the same manner as is now, or hereafter may be prescribed, by the laws of this state for the commencement of actions before justices of the peace, by summons; and all proceedings in the action, except as hereafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons, and triable before justices of the peace.

SECTION 5. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

The city of Sparta against A. B., in justice court, before C. D., justice of the peace.

The plaintiff complains against defendant, for that the defendant, on the ——— day of 188—, at

the said city, did violate (section ———, of chapter ———, of this act, or section ———, of an ordinance, or by-law or regulation of said city, describing it by its title), which said ——— is now in force. By reason of such violation, an action hath accrued to the city of Sparta, to recover of the defendant the sum of ——— dollars, debt. Wherefore, the plaintiff demands judgment against the defendant for the sum aforesaid, besides the cost of this action.

SECTION 6. In all cases where oath is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Complaint for warrant.

City of Sparta against A. B., before C. D., justice of the peace,——— county of Monroe—ss. E. F. being duly sworn, on oath, complains to C. D., justice of the peace in and for the city of Sparta, in said county, that A. B., on the ——— day of ———, 18—, at said city, did violate, (section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law, or regulation of said city, describing it by its title), which said ——— is now in force, as this complainant verily believes, and prays that A. B. may be arrested and held to answer to said city of Sparta therefor.

Sworn and subscribed to before me this ——— day of ———, 18—.

———— ————.

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated, in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form for warrant.

COUNTY OF MONROE, } ss.
City of Sparta. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal or any policeman of the city of Sparta, greeting:

Whereas, —— —— has this day complained to me in writing, on oath, that A. B., on the —— day of, ———, 18—, at said city, did violate (section

—— of chapter ——, of this act, or section —— of an ordinance or by-law or regulation of said city, describing it by its title,) which said —— is now in full force, as the complainant believes; therefore, you are commanded to arrest the body of said A. B., and bring him before me forthwith, to answer to the city of Sparta, on the complaint aforesaid. C. D., Justice of the Peace.

Action of justice defined.

Upon the return of the warrant the justice shall proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court for his, her or their appearance, in such sum as the court shall direct; or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the lock-up in such city, or to the common jail of Monroe county, and shall be received and kept therein the same as in criminal actions, except as modified by this act or the ordinances of said city. The complaint made as aforesaid, shall be the only complaint required; and the plea of not guilty shall put in issue all subject matter embraced in the action.

Printed copy to be evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without prepayment of fees.

SECTION 8. Witnesses and jurors shall attend before the justice of the peace in all city and criminal suits, without the payments of fees in advance, or a tender thereof, upon process duly served, and in default thereof their attendance may be compelled by attachment.

Trial by jury granted.

SECTION 9. In city prosecutions, both plaintiff and defendant shall enjoy the right of trial by jury as in civil actions in justices' courts, and the findings of the court shall be, guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the

costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution, as in cases of tort; in case the action was commenced by summons, and a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket of the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF MONROE, } ss.
City of Sparta. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal or policeman of the city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Sparta, on the ——— day of———, 18—, recovered a judgment before the undersigned justice of the peace in and for said city, against ——— ———, for the sum of ——— dollars, together with ——— dollars and ——— cents, costs of suit, for the violation of (section ——— of chapter ——— of this act, or section ——— of an ordinance or by-law or regulation of said city, describing it by its title). You are hereby commanded to levy distress of the goods and chattels of said ——— ——— (excepting such as the law exempts), and make sale thereof according to law to the amount of said sums, together with your fees, twenty-five (25) cents for this writ, and the same return to me within thirty days; and for want of such goods and chattels whereon to levy, to take the body of said ——— ——— and him convey and deliver to the keeper of the common jail of Monroe county; and said keeper is thereby commanded to receive and keep in custody, in said jail the said ——— ———, for the term of ———, unless the said judgment together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand this ——— day of———, 18—. C. D., (title of officer.)

Commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting

all that relates to the levy and sale and return of writ.

Right of appeal granted.

SECTION 10. Any defendant, feeling aggrieved by the judgment of a justice of the peace in an action commenced under the provisions of this act, may appeal from such judgment in the manner provided by the general laws of this state. Such defendant shall, within twenty-four hours, enter into a recognizance, with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return, together with the proceedings and a copy of the entries in his docket in action, together with the recognizance, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment as in other cases before justices of the peace.

Appeal to stand for trial.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived, in the manner provided by law, in said circuit court, and the next term thereof, after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

Final judgment

SECTION 12. If the judgment of the justice shall be affirmed, or if, upon the trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by executions, as in actions of tort.

Shall not work incompetency.

SECTION 13. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Village ordinances to remain in force.

SECTION 14. All ordinances and regulations now in force in the village of Sparta, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

Village actions to be assumed by city.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several or-

dinances or acts incorporating the village of Sparta, shall be vested in and prosecuted by the corporation hereby created.

How to serve process against city.

SECTION 16. When any suit or action shall be commenced against said city, the service thereof shall be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk of said city so served, forthwith to inform the common council thereof, or to take such demand or proceeding as by the ordinance or resolution of said council may be in such cases provided.

Penalties etc., to be paid into treasury.

SECTION 17. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city.

General bridge and other laws to be in force.

SECTION 18. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges in said city, and shall apply to any wilful or malicious damage which may be done to them by any person or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties.

Village property to be transferred to city.

SECTION 19. All moneys, property, effects and credits belonging to the present village of Sparta, shall belong to the city of Sparta, and shall be transferred to the proper officers of said city by the person in charge of the same, as soon as such officers shall be elected and qualified.

Village lawful debts to remain.

SECTION 20. Any lawful debt, claim, demand or right of action against the present village of Sparta shall be, and become a lawful debt, claim, demand or right of action against the city of Sparta.

Official duties.

SECTION 21. All duties herein required of the mayor, aldermen, common council or clerk in regard to elections shall be performed, so far as may be necessary, by the present president, trustees, board of trustees and clerk of the village of Sparta, in regard to the first election and the organization of the city government under this act.

Not repealing.

SECTION 22. No general law contravening the provisions of this act, shall be considered as

repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

Public act. SECTION 23. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all the courts of this state, and shall take effect and be in force from and after its passage and publication.

Approved March 27, 1883.

[No. 183, S.] [Published April 12, 1883.]

CHAPTER 176.

AN ACT to amend section 50, of chapter 86, of the laws of 1883, entitled, "an act to incorporate the city of Edgerton."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment. SECTION 1. Section 50, of chapter 86, of the laws of 1883, entitled, "an act to incorporate the city af Edgerton," is hereby amended so as to read as follows: "Section 50. If there should be any building, in whole or in part upon said lands to be taken, the jurors shall first estimate the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove."

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1883.

[No. 211, S.] [Published March 31, 1883.]

CHAPTER 177.

AN ACT to incorporate the city of Mauston.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Corporate name. SECTION 1. All that district of country in the county of Juneau, hereinafter described from and after the adoption of this act as hereinafter provided, shall be a city by the name of Mauston, and the people now inhabiting, and those who shall hereafter inhabit, the said district hereinafter described, shall be a municipal corporation by the

name of the City of Mauston, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession; shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a common seal, and may alter and change the same at pleasure; provided, that the question of the adoption of this act as a charter of such city shall be submitted to the electors of such territory before such charter shall become operative. For the purpose of determining such question, the qualified electors residing in such territory shall meet on the second Tuesday in April, 1883, at ten o'clock A. M., of that day, at such place as the inspectors of such election shall appoint, and vote by ballot upon such question. The president and any two trustees of the village of Mauston are hereby appointed inspectors of such election, and the village clerk of Mauston is appointed clerk thereof. Such inspectors shall give notice of such election by publishing notice thereof in a newspaper printed in the village of Mauston, or by posting the same in four public places of the proposed city, at least six days before such election. Such notice shall specify time, place and object of such election; the time of opening and closing the polls. At such meeting the polls shall be opened at ten o'clock A. M., and kept open until five o'clock P. M., when they shall be closed. In case of vacancy in the board of inspectors, or in case the clerk shall not be present, the electors present shall choose *viva voce* from the qualified electors of such territory, inspectors and clerks to fill such vacancies. Such inspectors shall preside over and conduct such election, and all the laws of this state applicable to the election of town officers, shall apply to all the proceedings thereat, so far as they are consistent with the provisions of this act. Every elector residing in such territory, and qualified to vote for village officers in said village of Mauston, may vote at such meeting, by a ballot having thereon the word "yes," or the word "no," according as he shall be in favor of or opposed to the incorporation of the city under this act. If the majority of ballots cast at such election have thereon the word "no,"

Election for adoption of charter, how conducted.

this act shall be inoperative and void. If a majority of such ballots have thereon the word "yes," this act shall be of full force and effect. The said inspectors shall make and certify returns of the result of such election, and file duplicates of the same in the office of the county clerk of the county of Juneau, and the village clerk of the village of Mauston, and such returns shall be evidence of the facts therein stated, and the regularity of all proceedings in relation to such election.

City boundaries.

SECTION 2. All of section number twelve (12), in township number fifteen (15) north, of range number three (3) east, and all of the west half of section number seven (7), in township number fifteen (15) north, of range number four (4), east, shall be included in and constitute the limits and boundaries of the city of Mauston.

Corporate authority.

SECTION 3. The corporate authority of said city shall be vested in a mayor and four aldermen, who with the mayor shall constitute and be the common council, together with such other officers as are hereinafter provided for.

Annual election, when held.

SECTION 4. The annual election for city officers shall be held on the third Tuesday in April in each year, at such place as the common council shall designate. The polls shall be open between nine and ten o'clock in the forenoon, and kept open until five o'clock in the afternoon, except that an adjournment may be had for one hour between the hours of 12 M., and one o'clock P. M. Six days previous notice of such elections shall be given, signed by the clerk, stating the time and place of holding the same, and the officers to be elected, which notice shall be posted in three public places in said city.

Officers of city.

SECTION 5. The elective officers of said city shall be a supervisor, to represent said city on the county board, a mayor, four aldermen, a treasurer, one assessor, a clerk, a city marshal, and two justices of the peace. All such officers shall be residents and legal voters of such city. All other officers necessary for the proper management of the affairs of said city, shall be appointed by the common council. All elective officers except justices of the peace, shall hold their offices for one year, and until their successors are elected and qualified. The justices of the peace shall hold their offices for two years, from the first Monday

in May next following such election, and until their successors are elected and qualified.

Elections to be by ballot.

SECTION 6. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council, and in such manner as they shall direct. Each ballot shall contain the names of all persons voted for as herein provided, with a proper designation of the office each person so named is intended to fill, and no ballot shall contain a greater number of names designated for any office, than there are persons to be chosen to fill such office.

Qualified electors.

SECTION 7. All persons who are qualified electors of the state of Wisconsin, and entitled to vote at a general election, and who are actual residents of the city of Mauston for ten days previous to the day of election, shall be entitled to vote at any election held in said city.

Not applicable to general elections.

SECTION 8. None of the provisions herein contained, relating to elections, shall be construed to apply to general elections, and no law of this state relating to the registration of voters shall be held to apply to elections under this act.

First election for city officers.

SECTION 9. The first election of officers, under this act, shall be held on the first Tuesday in April, in the year 1883, and all the officers of the village of Mauston, in office when this act shall take effect, shall hold their respective offices until such election shall be held, and the officers then to be elected shall be elected and qualified, unless a vacancy shall occur, which shall be filled by appointment, as in other cases; and from the time when this act takes effect until such election and qualification, the persons who but for this act would have been president, trustees, clerk, treasurer, assessor, justices of the peace and marshal of the said village of Mauston, shall be respectively the mayor, aldermen, city clerk, treasurer, assessor, justices of the peace and marshal of the city of Mauston.

Special elections.

SECTION 10. Special elections shall be called by the city clerk when ordered by the common council, and also on petition signed by twenty qualified electors of said city. Notice of such election shall be given by posting written notices of such elec-

tion in four public places in said city, at least six days prior to the time the same shall be held, and no business shall be transacted at such special election, except that specified in such order of the common council or in such petition, and in said notices. Such special elections shall be conducted and the votes received and canvassed and the returns shall be made in the same manner as is hereinbefore specified for city elections.

City clerk to be clerk of elections.

SECTION 11. The city clerk shall be clerk of elections and keep faithful minutes of the proceedings and a correct poll list, containing the names of all persons voting thereat.

Candidates cannot be inspectors.

SECTION 12. No person shall act as an inspector or clerk of any election who is a candidate to be voted for at such election.

Canvassing votes.

SECTION 13. When the polls of an election shall be finally closed, the inspectors shall proceed in the manner prescribed in the general laws of the state for town meetings, to count and canvass the votes, and shall make a return of the number of votes for each and every office, and the number of votes for each and every person for each and every office, and shall deliver such return to the city clerk immediately after such election, and shall declare the result as it appears from the same. In all cases of the election or appointment of any person to office, the common council shall file with the clerk a certificate, signed by at least a majority of them, giving the name of the person elected or appointed, and the term for which he was so elected or appointed, and the clerk shall record such certificate in a book to be provided for that purpose. Whenever a justice of the peace or city marshal shall be elected, the clerk shall forthwith give notice thereof in writing to the clerk of the circuit court of Juneau county, giving both the names, and terms for which elected, and upon the election of mayor or treasurer, the clerk shall give like notices to the clerk of the board of supervisors of Juneau county, and those county officers upon receiving such notices, shall file the same in their respective offices.

Inspectors of elections.

SECTION 14. Previous to holding any city election in said city, the common council shall appoint three qualified electors of said city to act as inspectors of such election, and in case of the absence or inability to act of any of the inspect-

ors so appointed, the electors present at the time for opening the polls shall, by a *viva voce* vote, choose inspectors in places of the ones absent. The city clerk shall be clerk of such election, and in his absence the inspectors may appoint a clerk. The inspectors and clerk shall take and subscribe the oath prescribed by the general laws of this state for inspectors and clerks of election. The inspectors shall decide all questions of order, cause public declaration to be made of all votes passed, and possess authority to enforce obedience to their lawful requirements; and if any person at such election shall conduct himself in a disorderly manner, and after notice from the inspectors, shall persist therein, the inspectors may order him to withdraw from the meeting; and on his refusal may order the city marshal or any other officer or person to take him into custody until the meeting shall be adjourned; they shall have the same authority to preserve order and enforce obedience as is possessed by the board of inspectors at a general election.

Legal ballots.

SECTION 15. The inspectors shall receive all legal ballots presented to them, and place the same in the ballot box, where the same shall be securely kept until the closing of the polls.

Challenging votes.

SECTION 16. If either of the inspectors of elections shall suspect that any person offering to vote does not possess the requisite qualifications, or if any such vote shall be challenged by an elector, the inspectors, before receiving the vote of any such person, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years old; that you are a citizen of the United States (or have declared your intentions to become a citizen, conformably to the laws of the United States on the subject of naturalization); that you have resided in the state of Wisconsin one year; that you are an actual resident within this city, and that you have not voted at this election, and that you have made no bet or wager depending on the result of this election." Which oath any member of the board of inspectors is hereby authorized to administer. And if the person so offering to vote shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof, shall suffer the punishment provided by law for

persons guilty of perjury. If any person who is not a qualified voter shall vote at any election, or shall vote more than once at any one election, he shall forfeit and pay a sum not exceeding two hundred dollars, nor less than twenty-five dollars. It shall be the duty of the inspectors to keep a list of the names of all persons who shall swear in their votes, which list shall be filed with the city clerk. The penalty for any unlawful or illegal conduct of clerks or inspectors of election, shall be the same as that provided by statutes of this state for similar conduct at any general election, and the penalty for illegal voting at such elections, shall be the same as that provided by the general laws of this state for illegal voting at a general election.

Acting mayor.

SECTION 17. The common council shall, at its regular meeting after its election, choose one of the board of aldermen, who shall be styled acting mayor, and who in the absence of the mayor shall act as such mayor, and have and possess all the rights and privileges of such officer and be subject to all the liabilities thereof during the absence of such mayor.

City clerk, his duties.

SECTION 18. The city clerk shall perform the duties required of him by law and the ordinances of the city. He shall keep the books, records and papers and corporate seal of the city, and the records of the proceedings of the common council, and shall possess the same powers that town clerks possess by law to issue transcripts from the records of his office, and they shall, when certified by him, be received in all courts in like manner and effect. He shall draw and countersign all orders on the treasurer and keep stubs of the same. He shall file all chattel mortgages and renewals thereof left with him for that purpose, and receive therefor and for all services the same fees allowed to town clerks for like services. The said clerk shall have and is hereby given authority to administer oaths. He shall countersign all ordinances enacted by the common council, and shall receive such compensation as the common council shall provide.

City treasurer, his duties.

SECTION 19. The treasurer shall perform such duties, and exercise such powers as may be lawfully required of him by the ordinances of said city, or the laws of this state. He shall receive all moneys belonging to the city and keep an accu-

rate and detailed account thereof, together with an account of all disbursements, in such manner as the common council shall direct. He shall report to the common council as often as required, and annually, at least ten days before the annual election, a full and detailed account of all receipts and expenditures since the date of the last annual report; and also of the state of the treasury, which statement shall be filed with the clerk. The city treasurer shall be collector of taxes in said city, and in addition to the powers and duties already specified, shall have the same powers and duties and be subject to the same liabilities as treasurers in towns. And when his successor in office shall have qualified according to the law, he shall deliver to such successor all moneys, books, papers and other property in his hands belonging or pertaining to the office of treasurer. He shall receive the same compensation as treasurers of towns in this state. All moneys collected for fines, penalties, forfeitures and licenses shall be paid to the city treasurer, and belong to the general fund in his hands, and as such shall be appropriated and drawn upon by the proper city officers.

Justices of the peace, their duties.

SECTION 20. The justices of the peace elected under this act shall file their oath of office, as required by the general laws of this state for justices in towns; shall have the same and equal jurisdiction, and perform all and like duties of justices of the peace under the general laws of the state of Wisconsin, and have, furthermore, jurisdiction of all offenses and actions under the provisions of this charter, and the ordinances, by-laws and police regulations of the common council of the city, and shall qualify in the same manner as provided by the general laws of this state, except that the official bonds of, or agreements required to be given by them shall be approved by the common council of said city.

Powers.

SECTION 21. The justices of the peace of said city shall possess and exercise the same and like powers, jurisdiction and duties, and shall be subject to the same liabilities and regulations as are conferred upon, and required of justices of the peace of the several towns of this state. All prosecutions for a breach or violation of any by-law, ordinance or regulation, shall, in all cases, be commenced in the name of the city of Mauston, and the same proceedings shall be had in all civil

and criminal actions before said justices of the peace, when not otherwise herein directed, as are established and are required to be had in civil and criminal actions and proceedings, by the laws of this state before justices of the peace, and either party shall have the same right of appeal under the same conditions and requirements as now are, or may be provided, by the laws of this state for taking appeals from justices' courts; but in appeals by the city the defendant shall not be required to furnish any bail or security. All fines and penalties imposed for violation of any city ordinance, resolution, by-law, or regulation shall belong to and be paid over to the treasury of said city, and be a part of the finances thereof.

Further duties.

SECTION 22. The justices shall account for and pay over to the treasurer of said city, all fines and penalties collected by him and belonging to said city, within ten days after receiving the same, and taking his receipt for the same in the docket. Said justices of the peace shall be entitled to receive, in all cases had before them in which said city is interested, the same fees as are provided by law for justices of the peace of the several towns of this state, in similar cases had before them.

Assessors.

SECTION 23. The city assessor shall assess the real and personal property of said city at the time, and in the manner provided for assessing in the towns of this state, and shall perform all other duties prescribed and directed by this act for him to perform, and he shall receive a compensation therefor of fifty dollars ($50) a year.

Marshal.

SECTION 24. The marshal shall perform such duties as shall be prescribed by the common council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute all writs and processes to him directed, and all writs and processes directed to a constable of Juneau county, and when necessary in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of this state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend with or without warrant any

persons in the act of committing any offense against any ordinance of said city, or the laws of this state, and within a reasonable time bring such person before competent authority for examination or trial, and for such services he shall receive such fees as are allowed by law to constables for like services in this state; he shall have power to appoint one or more deputies, subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties. Such deputies shall also take and subscribe the proper oath of office, which shall be filed in the office of the city clerk, and when duly qualified as aforesaid such deputies shall possess all the power and authority, and be subject to the same liabilities with the marshal.

Street commissioner.

SECTION 25. It shall be the duty of the street commissioner, within ten days after his appointment and qualification, to inspect all the streets in the city, and all sidewalks, crosswalks, ditches, gutters, sewers, culverts, bridges, and all things appertaining to the streets, and report in writing to the common council recommending in his opinion what is necessary and ought to be done thereto, in separate items in the order of their first, second and third necessity, and so on to the end of his recommendations under item number one for the first necessity, item number two for the second necessity, and so on to the end; and the city clerk shall lay said report before the common council for information, and the common council may order said street commissioner to put in repair any such street or sidewalk, if in their opinion it is a matter of necessity.

Further duties

SECTION 26. It shall be the duty of the street commissioner to see that all ordinances of the city, relating to the obstructions and cleaning or closing of sidewalks, crosswalks, streets, bridges, alleys, public grounds, gutters, sewers and waters in said city are duly observed and kept, and shall have the general supervision over all grading, paving, gravelling, planking, repairing and cleaning streets, bridges, alleys, public grounds and gutters, and such other duties as the ordinances of said city may prescribe, and shall receive therefor such compensation as the common council shall prescribe.

SECTION 27. If any person, having been an offi-

Penalty for failure to deliver to successor.

cer of said city, shall not, within ten days after demand therefor, deliver to his successor in office all property, moneys, books, papers and effects in his hands or possession, belonging to said city, pertaining to the office, he shall forfeit and pay to the city for its use the sum of one hundred dollars ($100), besides all damages caused by his neglect or refusal to deliver over the same, and such successor may recover possession of such moneys, books, papers and effects, or either or any of them, in the manner prescribed by the general laws of this state.

Shall not be interested in any job or contract.

SECTION 28. No mayor or alderman shall be interested in any job or contract with the city, and any job or contract in which any mayor or alderman is interested, shall be null and void, and any money paid on any such contract, may be recovered back by the city, in an action brought against the mayor or alderman so interested in such job or contract, in any court having jurisdiction of the amount involved in such action; provided, that no mayor or alderman, nor any person or party, except said city, shall be permitted to plead, prove or in any way take advantage of such nullity in their own behalf.

Officers of the peace.

SECTION 29. The mayor, acting mayor, each alderman, justices of the peace, marshal, deputy marshals, policeman, watchman and constable of said city, and the sheriff of Juneau county, and his deputies, shall be officers of the peace, and may command the peace and suppress in a summary manner, all riotous or disorderly behavior within the limits of said city; and, for that purpose, may command the assistance of all bystanders, and if any person shall refuse to aid in maintaining the peace, when so required, every such person so refusing shall pay a fine of not less than five nor more than fifty dollars.

Vacancies.

SECTION 30. Whenever a vacancy shall occur in any office herein provided for, the common council shall fill the vacancy by appointment. The person appointed to fill such vacancy shall hold the office and perform the duties thereof for the unexpired term, with the same rights, and subject to the same liabilities as the person whose office he shall be appointed to fill, except that a justice of the peace appointed to fill a vacancy shall only hold such office till the next regular city election,

at which a justice of the peace shall be elected for the unexpired term.

May appoint and remove officers.

SECTION 31. The common council may appoint the following officers, or any of them, as it deems best, prescribe their duties, fix their compensation, and remove them on giving the person to be removed one week's notice of the time and place of the meeting of the common council, to consider the question of such removal, and in the meantime such officer shall stand suspended, viz: A city attorney, a street commissioner, one or more fire wardens, one surveyor, one sealer of weights and measures, one pound keeper and one or more keepers of cemeteries, or sextons; the common council may impose and enforce such penalties for any malfeasance, or official misconduct committed by any person so appointed, as it shall deem proper, and may require any officer so appointed to give bonds for the faithful performance of duty.

When office shall be deemed vacated.

SECTION 32. Any officer removing from the city or any officer who shall neglect or refuse, for ten days after his election or appointment, to qualify and enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy by appointment.

In case of failure to elect.

SECTION 33. Should there be a failure to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place being first given.

Officers shall take oath.

SECTION 34. Every person elected or appointed to any office under this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the person taking the same, with the city clerk. The treasurer, and such other officers as the common council shall direct, shall, severally, before they enter upon the duties of their respective offices, execute to the city of Mauston a bond in such amount and in such form, and with such sureties as the common council shall approve, the sureties to which shall severally justify under oath; and the common council may, at any time for sufficient cause, require new and additional bonds and remove from office any officer refusing or neglecting to give the same, which bonds shall be filed with the city clerk.

Duties of mayor.

SECTION 35. The mayor, when present, shall preside over the meetings of the common council, but he shall only be entitled to vote in case of a tie vote. He shall see that the laws of the state and ordinances of the city are observed and enforced, and that the executive officers of the city discharge their respective duties. The mayor shall be the chief executive officer and head of the police of the city; and in case of riot or other disturbance, or when there shall be an apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary, and when so appointed, such policemen shall have the powers usually possessed by policemen of cities of this state.

Who constitute council.

SECTION 36. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services unless they be acting as inspectors of elections, and the style of all ordinances shall be: "The common council of the city of Mauston do ordain," etc. A majority of the aldermen shall constitute a quorum, but a less number may adjourn from time to time.

Meetings of council.

SECTION 37. The common council shall hold its first annual meeting in each year on the first Tuesday after the regular city election, and thereafter meetings at such times as they shall appoint; and the mayor may call special meetings by notice to each of the members, to be served personally or left at their several places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members, and have power to compel the attendance of absent members by fine or otherwise.

Control and management of finances.

SECTION 38. The common council shall have the control and management of the finances and of all the property of the city; and shall likewise, in addition to the powers herein vested in it, have full power to make, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade and commerce, and health, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinance, rule, or

by-law, and such rules, ordinances and by-laws are hereby declared to be and have the force of laws; provided, they are not repugnant to the constitution and laws of the United States or of this state.

Powers of council.

SECTION 39. The common council shall have power to license and regulate the exhibition of common showmen and shows of any kind, or the exhibition of caravans, circuses, or theatrical performances, billiard tables, bagatelle tables, pigeon hole tables, and bowling saloons, etc., and to provide for the abatement and removal of nuisances, under the ordinances or at common law, and to grant licenses for selling spirituous, vinous or fermented liquors, and to prescribe regulations for the keeping of all places where the same are sold, and to revoke any license for a violation thereof, and for a violation of any ordinance, by-law, or regulation of said city or law of the state, and to regulate and license groceries, taverns, victualing houses, and to revoke the same for a violation thereof; provided, that the sum to be paid for any such license shall not be less nor more than the amount per annum established by the general laws of the state of Wisconsin, and that all such licenses hereafter granted shall run from the first day of May in each year; provided, however, that when any license may be applied for after that date, the same may be granted to expire on the said first day of May thereafter; but no license shall be granted for a longer time or period than one year:

Gambling.

1. To suppress, restrain, and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, or giving away, or dealing in spirituous, fermented or vinous liquors unless duly licensed by the common council, and to license, regulate and suppress hawkers, peddlers and auctioneers.

Suppress riots.

2. To prevent or regulate the blowing of steam whistles, and prevent riots, noise, disturbances or disorderly assemblages, suppress and restrain disorderly houses or groceries and houses of ill-fame, and to authorize the destruction of all instruments used for the purposes of gambling. No person shall be incapacitated or excused from tes-

tifying, touching any offense committed against any of the provisions of this act, or any ordinance of the city of Mauston, by reason of his or her being implicated in any such offense, but the testimony of such witness shall in no case be used against such witness.

Nauseous places.

3. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome house or place, to cleanse, remove or abate the same, from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses.

4. To direct the location and management of slaughter houses and markets, and to prevent the erection of and use and occupation of the same, when offal or filth therefrom shall discharge into the waters of the rivers, lakes, ponds or sloughs.

Encumbering streets.

5. To prevent the encumbering of streets, sidewalks, crosswalks, lanes or alleys, with railroad cars, carriages, sleighs, boxes, lumber, firewood, or any other materials or subtances whatever.

Horse racing.

6. To prevent horse racing, and immoderate driving in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

7. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the restraining, impounding and sale of the same.

Dogs.

8. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinance.

Carcasses.

9. To prevent persons from bringing, depositing, or having within said city, any putrid carcasses, or unwholesome substance, and to require the removal of the same by any person who may have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides, or skins of any kind, or on default, to authorize the removal thereof, by some competent officer, at the expense of such person or persons.

Public pounds.

10. To establish and make public pounds, pumps, wells, cisterns and reservoirs of the city, to regulate and license hacks, cabs, drays, carts, and charges of hackmen, cabmen, draymen and cartmen in the city; and to erect lamps for light-

ing the streets, public grounds, and public buildings with gas or otherwise.

11. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and return of the bills of mortality, and to exempt burial grounds, set apart for public use, from taxation. Boards of health.

12. To establish the weight and size of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Bread.

13. To prevent all persons riding or driving any horse or mule, or any other animals, on the sidewalks of said city, or in any way doing damage to sidewalks and bridges. Driving on sidewalks.

14. To prevent shooting of firearms or fire crackers, and other explosives, and to prevent the exhibition of fireworks in any place or situation which may be considered by the common council, dangerous to the city or any property therein, or annoying to the citizens thereof. Fire-arms and fire crackers.

15. To restrain drunkards, immoderate drinking, or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Drunkenness.

16. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments. Runners and solicitors.

17. To make rules, regulations and ordinances for the government of the police of the city. Control police.

18. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to punish or restrain all persons for attempting or interfering with the due observance of such rules and regulations; to license and regulate butchers' stalls, shops, stands for the sale of game, poultry, meats, fish and other articles. Markets, etc.

19. To regulate the place or places and manner of weighing or selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same. Hay and fuel.

20. To compel the owners of buildings or grounds, or the occupants, when the same are occupied, to remove snow, dirt, or rubbish from the sidewalks, streets or alleys adjoining thereto, and to compel such owner or occupant to remove from Remove snow, dirt, etc.

the lot owned or occupied by him, all such substances as the board of health shall direct; and in his or her default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Auctioneers. 21. To regulate the time, manner and place of holding public auctions or vendues.

Unfastened horses. 22. To require the owner or driver of horses, oxen or other animals, attached to vehicles or otherwise, to fasten the same while in the streets or alleys of the village, to prohibit the hitching of horses, teams or animals to any fence, tree or pump; to regulate and control the running of engines and cars through the city, and the rate of speed of the same.

Repair of roads. 23. To construct, grade, improve and repair roads outside the limits of said city, which lead into the city.

Lawlessness and lawless places. 24. To prevent and suppress fights, vagrancy, obscenity, lewdness, prostitution, immoderate drunkenness, drinking, and the sale of spirituous, vinous or fermented liquors to minors, persons of weak mind, persons intoxicated or bordering on intoxication, persons addicted to excessive drinking, and on all election days, and at such times as riotous or disorderly assemblages are gathered, or seem imminent.

Watchmen. 25. To appoint watchmen and policemen and prescribe their duties.

Weights and measures. 26. To provide by ordinance for a standard of weights and measures.

Trees. 27. To protect trees and monuments in said city.

Sewers and drains. 28. To prescribe and regulate the construction of sewers within said city.

Lay out streets. 29. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from any incumbrances, and to protect them from injury.

Change names of streets. 30. To alter or change the name of any street in the city.

School district boundaries. 31. To consolidate or change the boundaries of school districts in said city, under the same restrictions and with the same power as is now conferred on town boards under the general laws of this state.

Ordinances. 32. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, neces-

sary for the good order and government of the city, or which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city, by this act, or which may be vested in any officer of said city by any ordinance thereof.

Penalties.

33. To declare and impose penalties for the violation of any of the provisions of any ordinance, by-law or regulation enacted by said common council, and to enforce and collect such penalties, with costs of prosecution, but no such penalty shall exceed the sum of one hundred dollars ($100).

Actions against city.

34. To provide for the prosecution or defense of all actions or proceedings in which the city is interested, and employ counsel therefor.

City hall and engine houses.

35. To purchase real estate, and provide for the erection of a city hall and engine houses.

Raising tax by special election.

36. To call a special election for the purpose of raising a tax, when in their opinion the amount, which they are authorized to raise by the provisions of this act, is insufficient to meet the requirements.

Grade of streets.

37. To establish grades of any or all the streets in the city, and when a grade shall be established it shall have such gradients as shall be sufficient to carry off all surface water, or other waters from whatever source coming on the street or streets; and when a grade is so established they shall cause an accurate profile to be made thereof and filed with the city clerk; and all such grades shall be worked in exact accordance with such profile and the ordinances establishing the same.

Sidewalks, etc.

38. To cause sidewalks, gutters and pavements, or either of them, to be constructed, repaired and rebuilt on such streets or parts of streets in said city as the common council shall deem proper; to prescribe the width of any such sidewalk or pavement, the size of any such gutter, and the material of which any such sidewalk, gutter or pavement shall be constructed, and the time within which the owners of the premises in front of which any such sidewalk, gutter or pavement shall be ordered to be constructed may build the same; and in case any such owner shall fail to build the same within the time so limited, then the common council shall cause such sidewalk, gutter or pavement, as the same may be, to be built at the expense of such owner or owners; and the common council shall levy a special tax upon each lot or piece of

ground in front of which any such sidewalk, gutter or pavement shall be constructed, sufficient to pay the cost of constructing so much of the same as lies in front [of] said lots or parts of lots, which said special tax shall be collected at the same time, and in the same manner as is herein provided for the collection of other taxes in said city; provided, that the common council shall not order any street paved, until two-thirds of the resident owners of the premises, upon which the expense thereof shall be chargeable, shall, in writing, petition therefor.

Renumber lots and blocks.

39. To renumber the lots and blocks of said city, or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds of Juneau county.

Fire limits.

40. To establish fire limits or the limits within which buildings of wood or other combustible material shall not be erected.

Ladders and fire buckets.

41. To require the owners or occupants of buildings to provide and keep suitable ladders and fire buckets, which shall be appurtenances to the realty, and exempt from seizure and forced sale, and after reasonable notice to such owner or occupant to procure the same, and his refusal or neglect so to do, to procure and deliver the same to him, and in default of payment therefor, to levy the cost thereof as a special tax upon the real estate to which such buildings are appurtenant.

Establish a fire department.

42. To establish a fire department and to provide for the due and proper support and regulation of the same, and to appoint or direct the election of such officers for such department as they shall see fit, and to define their powers and duties; to provide protection from fire by the purchase of fire engines and all the necessary apparatus for the extinguishing of fires, and by the erection of pumps and construction thereof, water mains, reservoirs or other water works; to erect engine houses; to compel the inhabitants of the city to aid in the extinguishing of fires, and to pull down and raze such buildings in the vicinity of fires as shall be directed by them or any two of them, who may be present at the fire, for the purpose of preventing its spreading to other buildings; to regulate the storage of gunpowder and other dangerous materials; to require the construction of safe places for the deposit of ashes;

to regulate the construction of, and cleaning of chimneys; to prevent bonfires, and the use of fireworks and firearms in the city or any part thereof; to authorize fire wardens at all reasonable times to enter into and examine all dwellings, lots, yards, inclosures and buildings of every description, in order to discover whether any of them are in a dangerous condition, and to cause such as may be dangerous to be put in a safe condition at the expense of the owner thereof, or to levy and collect with the other taxes a special tax upon such property therefor; and generally to establish such necessary measures for the prevention or extinguishing of fires as may be necessary and proper, and to declare by ordinance the penalty for violation of any ordinance or regulation authorized by the provisions of this act, not exceeding the sum of one hundred dollars ($100) for any one offense besides costs.

Laws, ordinances, etc., how passed.

SECTION 40. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and all ordinances shall be signed by the mayor, and shall be published for one week in a newspaper published in the city of Mauston, before taking effect, and they shall be recorded by the city clerk in books provided for that purpose; but before any such by-laws, ordinances or regulations shall be recorded, the publication thereof respectively within the same time shall be proven by the affidavit of the foreman, or publisher of the newspaper in which the same shall be published, and the said affidavit shall be recorded therewith, and at all times and in all courts such record, or a transcript thereof duly certified by the city clerk, shall be deemed and taken as sufficient evidence of the time and manner of the publication.

Shall not bar or hinder suits.

SECTION 41. The power conferred upon said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required thereof; houses or buildings of any kind wherein more than one hundred pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared and shall be deemed nuisances.

Examine and adjust accounts.

SECTION 42. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal and other officers or agents of the city, at such time as they may deem proper; also at the end of each year, and before the time for which the officers of said city are elected or appointed shall have expired; and the common council shall require each and every such officer and agent to exhibit his books, accounts and vouchers, for such examination and settlement; and if any such officers shall refuse to comply with the orders or requirements of the council in the discharge of their duties, in pursuance of this section, or shall neglect or refuse to render their accounts, or present their books and vouchers to said council, it shall be the duty of said council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or person, or agent of said city who may be delinquent or defaulting in his accounts, or discharge of his official duties, and shall make a full record of all such settlements.

Manage finances.

SECTION 43. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the council, and all orders drawn upon the treasurer shall specify the purpose for which they are drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city. All orders shall be payable to the person, or order of the person in whose favor they may be drawn.

Annual tax levy.

SECTION 44. The common council of said city shall annually levy upon the taxable property of said city, to defray the current and lawful expenses of said city, a tax sufficient to defray the same; provided, said common council shall not levy a tax for general purposes, exceeding one per cent. upon the assessed valuation of said city, in any one year, unless authorized to raise a greater sum, by the majority of the electors of said city, at a general or special election.

Respecting the issue of bonds.

SECTION 45. The common council of said city

shall not have power to issue any bonds, or other evidences of debt, payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, nor shall the common council issue, in any one year, orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act.

Claims or accounts shall be verified.

SECTION 46. No claim or account shall be allowed by the common council, unless the same is properly verified by the oath of the owner thereof, or some person in his or her behalf, except it be for street work or hire, under the supervision of the street commissioner, duly certified by him.

Action shall be final.

SECTION 47. When the claim of any person against the said city shall be disallowed, in whole or in part, by the common council, the determination of the common council disallowing the same, in whole or in part, shall be final and conclusive, and a perpetual bar to any action in any court founded on such a claim, unless an action to recover the same shall be commenced within sixty days after such disallowance by the common council of said city, and no action shall be maintained against said city except on a city order or bond, until a claim shall have been presented to the common council as herein provided.

Annual report of council.

SECTION 48. The common council shall annually, on Tuesday next preceding the annual election, make a report showing in detail all the receipts and disbursements of the said city for the past fiscal year, and cause the same to be published before the annual election.

Power to lay out streets, alleys, etc.

SECTION 49. The common council shall have power to lay out public streets and alleys, and to widen the same as follows: Whenever five or more freeholders residing in said city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for the public use, for the purpose of laying out public streets or alleys, or the enlarging of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition, the common council shall thereupon cause notice of such application to be given to the owners or occupants of such lands, if any

there be, or if any portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notices, describing as near as may be the premises proposed to be taken, to be published in a newspaper published in said city four weeks successively, at least once in each week.

What notice shall state.

SECTION 50. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice or the expiration of such publication, as the case may be, application will be made to a court commissioner of said county of Juneau, for the appointment of twelve jurors to view said premises, and to determine whether it will be necessary and proper to take the same for the purposes specified in said petition.

Duties of court commissioner in condemning land.

SECTION 51. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said court commissioner shall appoint twelve resident freeholders of said city, but not interested in the result of such application. The said court commissioner shall thereupon issue his precept directed to said jurors, requiring them within ten days, to view the premises to be specified in said precept, and to make returns under their hands, to the common council, whether, in their judgment, it is necessary and proper to take said premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath, faithfully and impartially to discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Marshal shall serve precept.

SECTION 52. The city marshal shall serve the said precept immediately on the jurors therein named, by reading the same to each one that can be found, and immediately after such service he shall return the said precept to the court commissioner who issued the same, together with his doings thereon; and if the jurors so appointed cannot be found, or shall be disqualified from acting, or shall refuse to act, the court commissioner shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

SECTION 53. The said jurors, at such times as shall be designated in said precept, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing, and either of the jurors shall be authorized to administer oaths to witnesses. After viewing the premises in question, and hearing testimony if offered, the jurors shall make a report of their proceedings, which shall be signed by them, and which shall state whether, in their judgment, it is necessary to take the premises in question for public use: which said report, testimony and precept shall be returned to the common council. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings confirming said report, and directing the same jurors, within twenty days thereafter, to again view the premises to ascertain the amount of damages to be paid the owner or owners of said property proposed to be taken, and to assess and return within the twenty days such damages to the common council, who shall enter an order confirming the same, and a majority of such jurors may decide any question submitted to them as herein provided. Jury to view lands.

SECTION 54. If there should be any building in whole or in part upon said lands to be taken, the jurors shall first estimate the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and secondly, the value of such building to him to remove. In case there is a building.

SECTION 55. At least ten days' notice of such determination shall be given to the owner, or his agent, if known and a resident of the city; if not known or a non-resident, notice to all persons interested shall be given by publication in a newspaper of said city, for three successive weeks. Such notice shall specify the building and the award of the jurors, and it shall require the parties interested to appear by a day therein named, and give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken, with the land appropriated, or their intention to remove such building, and he shall have such time to remove such building as the common council may allow. Notice to be given.

SECTION 56. If the owner shall refuse to take

If owner refuses to take building.

the building, at the value assessed by the jurors, to remove, or fail to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale; the proceeds shall be paid to the owner or deposited for his use. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgment or mortgages, or if there be any estate in them less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

Award shall be signed by jury.

SECTION 57. The award of said jurors shall be signed by them and returned, together with the testimony taken, and the precept, to the common council within the time limited in such precept. Any person whose property is taken, or against whom any assessments are made, may, within ten days from the return of the jurors to the common council, appeal from such assessment of damages to the circuit court of Juneau county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond to said city conditioned for the faithful prosecuting of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; said bond to have a good and sufficient surety, to be approved by the clerk of said city or county judge or court commissioner.

Damages shall first be offered or paid.

SECTION 58. The lands required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owners thereof, or party entitled shall be paid or tendered to the owner or party entitled thereto, or his agent, or in case the owner or party entitled thereto, or his agent cannot be found or is unknown, deposit it to his credit in some safe place of deposit, and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds opened or laid out. The damages assessed shall be paid within one year or tendered or deposited as herein required, and if not so paid, tendered or deposited within one year from the confirmation of such assessment, the proceedings shall be void.

In case of minor.

SECTION 59. When any known owner of lands or tenements, affected by any proceedings under this act, shall be an infant or labor under legal disability, the county judge of Juneau county, on the application of the mayor of the city, or such party or his next friend, shall appoint a guardian for such party, and all notices required by this act shall be served upon such guardian. Whenever any street, alley, or public grounds shall be laid out under the provisions of this chapter, the common council shall cause an actual survey and profile thereof to be made and filed in the office of the clerk.

All property subject to taxation.

SECTION 60. All property, real or personal, within the city, excepting such as may be exempt by the laws of the state, shall be subject to taxation for the support of the city government, schools and the payment of debts and liabilities, and the same shall be assessed in the manner hereinafter provided, and the assessor elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act; provided, that the common council may prescribe the form of assessment roll and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls as it may from time to time deem advisable. When the assessment roll shall be completed, the assessors shall return the said assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll and for the purpose of equalizing the same, may alter and add to, take from, and otherwise revise and correct the same. If it shall appear to the assessor, that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force as it would have had if made the year when the same was omitted. Should the tax or assessment upon any parcel of land be set aside or declared void, by reason of any defect or informality in assessing, levying, selling or conveying the same,

but not affecting the justice and equity of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relevied in such manner as it shall direct by ordinance.

Board of equalization.

SECTION 61. The mayor, clerk and assessors shall constitute the city board of equalization, and shall meet on the first Monday of July in each year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed, as far as the same are applicable, revising, correcting and equalizing the assessment roll of the city; the mayor shall be president of the board and the city clerk, clerk thereof. When the assessment roll shall have been completed, revised and corrected, it shall be filed with the clerk, and all changes of the assessment roll by the board of equalization shall be recorded by the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money, as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized percentage. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and on all personal property of any person or body politic assessed for personal tax, from the delivery of the warrant for collection thereof until paid.

Duty of clerk upon receipt of assessment roll.

SECTION 62. It shall be the duty of the city clerk, immediately on the receipt of the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out in the tax roll, the total amount of such taxes, together with the city, and other local taxes, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent; and the clerk shall immediately make out a duplicate copy of such tax roll, when thus completed, and deliver the same to the treasurer, on or before the second Monday in December, in each year, and to each tax roll so delivered, a warrant, under the hand of the clerk and the corporate seal of said city, shall be annexed, substantially in the following form:

Warrant.

The state of Wisconsin, to the city treasurer of the city of Mauston, in the county of Juneau:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll, and of the owners of the real estate described therein, the taxes set down in such roll, opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation upon whom such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected, after deducting your fees, you are first to pay to the treasurer of the county of Juneau, on or before the last Monday in January next, the sum of ———, for state taxes, and the further sum of ———, for county taxes; and the balance of said money you are required to retain and pay out according to law; and in case said tax and assessment shall not be paid by the fourth Monday of February next, you are required to return the same to the county treasurer of the said county of Juneau.

Given under my hand and the corporate seal of the city of Mauston, this —— day of ———, 18—.

—— ———, City Clerk.

Prima facie evidence.

The assessment roll and warrant thereto attached shall be *prima facie* evidence in all courts, that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

General laws shall be in force.

SECTION 63. All the general laws of this state, which are now or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes and all assessments of said city, in the same manner as is required by law of town treasurers to collect taxes, except as herein provided.

Public notice shall be given.

SECTION 64. Upon the receipt of the tax roll and warrant by the treasurer, he shall give public notice in a newspaper published in said city, that such tax list has been delivered to him for collection, and that he will receive payment for taxes at his office for the term of thirty days ensuing the

date of said notice. If the taxes are not paid in that time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written or printed notices in as many public places in said city; provided, that the time for the collection of taxes may be extended by the common council not to exceed forty-five days.

Treasurer's fees.

SECTION 65. The treasurer shall collect as fees for the collection of taxes, two per cent. on all taxes collected by or paid to him prior to the second Monday of January in each year, and five per cent. upon all taxes or assessments paid to or collected by him after the second Monday of January, and in case of a distress or sale made by him of goods and chattels for the payment of any tax, he shall collect the same fees as are allowed constables on the sale of goods upon execution.

State tax.

SECTION 66. The treasurer shall, on or before the last Monday of January in each year, pay to the county treasurer the state tax assessed upon the property of said city.

In case treasurer is unable to collect tax.

SECTION 67. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things as are prescribed by the laws of this state, and any act that may be hereafter passed, amendatory of said acts in addition thereto.

Relief of poor.

SECTION 68. The laws of the state for the relief and support of the poor in towns shall apply to said city, and the common council shall appoint one or more of its number to act as overseers of the poor of the city, who shall perform all the duties of overseers of the poor in towns.

Control of common schools.

SECTION 69. The common schools of the city of Mauston shall be under the control and supervision of the school district boards of each district, in the same manner as if this act had not been passed, and the same relations shall be sustained between said city and such schools, as near as may be, as between towns and school districts therein, and the same reciprocal powers and duties.

Actions by city.

SECTION 70. The city of Mauston, in its corporate name, may sue for and recover any and all fines, penalties and forfeitures, under said city charter and the acts amendatory thereof, or under

the ordinances, by-laws or police or health regulations made in pursuance thereof, any general law of the state to the contrary notwithstanding; and it shall be lawful to complain generally in debt for such penalty or forfeiture, stating the section of this act, or the chapter or section of this act, or the ordinance, by-law or regulation or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. In all prosecutions for any violation of any of the provisions of this act, or any ordinance, by-law or regulation, the first process shall be a summons, unless oath be made for a warrant, as in case of tort, before a justice of the peace under the general statutes of the state for the time being; and when commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF JUNEAU, } ss.
City of Mauston. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Mauston:

You are hereby commanded to summon ———— ————, if he shall be found in your county, to appear before the undersigned, a justice of the peace in and for the city of Mauston, on the ——— day of ———, A. D. 18—, at ——— o'clock in the ——— noon, to answer to the city of Mauston to the damage of said city, two hundred dollars or under.

Given under my hand, this ——— day of———, 18—. ———— ———- Justice of the Peace.

When returnable.

Such summons shall be made returnable and served in the same manner as is now, or hereafter may be prescribed by the laws of this state, for the commencement of actions before justices of the peace by summons; and all the proceedings in the action, except as hereinafter provided, shall be governed by the laws of this state for the time being, relative to actions commenced by summons and triable before justices of the peace. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

The city of Mauston against A. B., in justice court, C. D., justice of the peace.

The plaintiff complains against the defendant, for that, on the ——— day of ———, 18—, at the

said city, the defendant did violate section ——— of (this act), or section ——— of an ordinance or by-law, or regulation of said city (describing it by its title), which said ——— is now in force. By reason of such violation, an action hath accrued to the city of Mauston, to recover of the defendant the sum of ——— dollars ($—); wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the cost of this action. In all cases where oath is made for a warrant, the complaint shall be made on oath, and substantially in the following form:

Form of complaint for warrant.

City of Mauston, against A. B., in justice court, county of Juneau. ——— ———, being duly sworn, complains on oath to C. D., a justice of the peace, of the city of Mauston, in said county, that A. B., on the ——— day of ———, 18—, at said city, did violate section ——— of (this act), or section ———, of chapter ———, of (this act), or section ——— of an ordinance, or by-law, or regulation of said city (describing it by its title), as this complainant verily believes; and prays that said A. B. may be arrested and held to answer to said city of Mauston therefor.

Sworn and subscribed this ——— day of ———, 18—.

Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF JUNEAU, } ss.
City of Mauston. }

The state of Wisconsin, to the sheriff or constable of said county, or to the marshal of the city of Mauston:

Whereas, ——— ——— has this day complained to me in writing, on oath, that A. B., on the ——— day of ———, 18—, at said city, did violate section ——— of this act, or section ——— of chapter ——— of this act, or section ——— of an ordinance, by-law or regulation of said city (describing it by its title), therefore, you are hereby ordered to arrest the body of said A. B., and bring him before me forthwith, to answer to the said city of Mauston on the complaint aforesaid.

C. D., Justice of the Peace.

Duty of justice upon return of warrant.

Upon the return of the warrant the justice shall proceed summarily with the case, unless it be adjourned. The defendant, if required by the court,

shall recognize with security to be approved by the court, for his or their appearance, in such sum as the court may direct, or in default may be put in the charge of the officer who made the arrest, or to be committed to the lock-up or jail of said city. The complaint as aforesaid, shall be the only complaint required, and the answer of "not guilty" shall put in issue all the subject matter embraced in the action.

Printed copy shall be evidence.

SECTION 71. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in a pamphlet or book form, purporting to be published by authority of the common council, or certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Witnesses and jurors to attend without fees advanced.

SECTION 72. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without payment of fees in advance, or a tender thereof, upon a process duly served, and in default thereof their attendance may be compelled by attachment.

Verdict or finding, relating thereto.

SECTION 73. In city prosecutions, the findings of the court or jury shall be, "guilty" or "not guilty." If guilty, the court shall render judgment against the defendant for the fine, forfeiture or penalty prescribed in this act, or in an ordinance, by-law or regulation, and for costs of suit; and in default of payment of such fine, forfeiture or penalty, the offender may be imprisoned for such time as the court shall direct, not exceeding six months; but if not guilty, the costs of suit shall be taxed against the city. Upon rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution as in other cases of tort in justices' court, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket, the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. The form of the execution and commitment shall be the same, as near as may be, and conform to the pro-

visions of this act, as are prescribed in similar or like cases, in justices' court in this state.

Appeal from verdict.

SECTION 74. Any party feeling aggrieved by the judgment in any action commenced under the provisions of this act, may appeal from such judgment to the circuit court of Juneau county, in the time and manner provided by law for appeals from justices' courts.

Incompetency.

SECTION 75. No person shall be an incompetent witness, judge, justice or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

General bridge law shall prevail.

SECTION 76. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, are hereby extended to, and shall include all the bridges now erected or hereafter to be erected over any stream, by or in the city of Mauston; and shall apply to any wilful or any malicious damage which may be done to them; and the common council of the said city may, from time to time, make such by-laws and ordinances as it may deem necessary for the preservation of said bridges, and enforce the same by adequate penalties.

Actions, how commenced.

SECTION 77. When any action or suit shall be commenced against said city, the service of process may be made by leaving a copy of the summons with the mayor and clerk of said city, and it shall be the duty of said clerk to take such proceedings as by ordinance or resolution directed, if any there be.

City property exempt from city judgments.

SECTION 78. No real or personal estate or property of any inhabitant or corporation of said city, shall be levied on or sold to satisfy any contract or debt or obligation of said city, or any judgment against said city of Mauston.

Work to be let by contract.

SECTION 79. All contracts for work ordered by the common council shall be let by contract or job to the lowest bidder, unless the common council otherwise direct and order.

Remission of penalties.

SECTION 80. No penalty or judgment recovered in favor of the city shall be remitted or discharged except by a two-thirds vote of the aldermen elect.

City may purchase and hold real estate.

SECTION 81. The said city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may

sell and convey the same; and the same, while owned or held by said city, shall be exempt from taxation, except as provided by the general laws of this state.

Deeds.

SECTION 82. When the city of Mauston deeds or leases any real estate, or any interest therein, owned by said city, the party of the first part shall be the city of Mauston, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Deeds and leases, when executed.

SECTION 83. Deeds or leases executed by the city shall be signed by the mayor and countersigned by the clerk; and the clerk shall attach to said deed or lease a true copy of an ordinance or resolution, authorizing the same by the common council, under the corporate seal of the city, which said corporate seal shall also be attached to and accompany the signature of the mayor; and such deed or lease and the certified copy of such ordinance or resolution, when so attached by such deed or lease, shall be recorded with such lease or deed by the register of deeds, and such copy when so attached, and the record thereof, shall, in all the courts of this state, be *prima facie* evidence of the authority of the mayor to execute such deeds or leases.

Failure to hold election shall not abolish city.

SECTION 84. If any election by the people or common council shall, for any cause, not be held at the time or in the manner prescribed, or if the council should fail to organize as provided, it shall not be considered reason for arresting, suspending or abolishing said corporation, but such election or organization may be had at any subsequent day by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws, or regulations of said city, to be done by any officer at any specified time, and the same are not then done and performed, the common council may appoint another time at which said act may be done and performed.

Not repealing.

SECTION 85. No general laws of this state contravening the provisions of this [act] shall be considered as repealing, amending or modifying the same, unless such purposes be expressly set forth in such law as an amendment to this charter.

Policemen.

SECTION 86. Any policeman appointed under the provisions of this act or the provisions of any ordinance of said city, shall have all the powers usually conferred upon policemen in cities, and

are hereby authorized to arrest with, or without process, any person engaged in the commission of any offense under the laws of this state, or the ordinances of said city.

Village ordinances to remain in force.

SECTION 87. All the ordinances now in force in the village of Mauston shall remain in force and be ordinances of the city of Mauston, with the same force and effect as if this act had not been passed, until amended or repealed by the common council. And all property belonging to the village of Mauston at the time this act takes effect, shall belong to the city of Mauston; and all rights and liabilities of the village of Mauston shall belong to and be passed by the said city of Mauston, and may be enforced by or against said city of Mauston with the same force and effect, and by the same means as the same could have been enforced by or against the village of Mauston.

Licenses.

SECTION 88. All licenses granted by the board of trustees of the village of Mauston shall continue, and be in force for the same time and under the same conditions and restrictions as though this act had not been passed.

Poll tax.

SECTION 89. Every male inhabitant of the city of Mauston over the age of twenty-one years, and under the age of fifty years, except such as are, or may be exempted therefrom under the general laws of this state shall annually pay such sum, not to exceed one dollar and fifty cents ($1.50) as the common council shall determine as a highway or poll tax. The street commissioner may, at any time after the first day of May, in each year, call upon all persons liable to pay such highway or poll tax, and demand payment thereof, and if the person so called upon shall fail or neglect for twenty days after such demand to pay the same, the person so failing or neglecting shall be liable to pay a penalty of three dollars ($3.00), together with the costs of prosecution, and the city of Mauston is hereby empowered to maintain a prosecution to collect such penalt of three dollars ($3.00) with the costs of prosecution. The process in such action shall be by warrant, which may be issued by any justice of the peace of said city upon a sworn complaint made by the street commissioner or other person. Such warrant shall be as near as may be (and comply with this section) in the form hereinbefore prescribed for warrants in other prosecutions by the city of Mauston. In case judgment shall be

rendered against the defendant in such prosecution, and [he] if shall refuse or neglect to pay such judgment, the justice by whom such judgment is rendered, or his successor in office, may at any time issue an execution on such judgment to collect the amount thereof, from any property of the judgment debtor, and no property of such debtor shall be exempt from seizure and sale thereon. In all prosecutions under this section the same proceedings shall be had as in action for torts before justices of the peace, under the general laws of this state, except as herein provided, and the execution shall be in the same form as near as will comply with this act, and the same procedure shall be had on such execution as in actions for torts before justices, under the general laws of this state as near as may be.

City regarded as a town for equalizing purposes.

SECTION 90. The board of supervisors of the county of Juneau, shall have the right and shall regard the city of Mauston as a town, in equalizing the assessment rolls of the several towns in said county, as provided by law. The said board of supervisors may levy a tax or taxes, as now is and may hereafter be provided by law in relation to towns, and shall cause the amount of taxes so levied to be certified to the city clerk in the manner provided by law in relation to towns or town clerks.

Copy of assessment roll to be transmitted.

SECTION 91. Before the annual meeting of the board of supervisors of the county of Juneau, and by the time required by law for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll or such statement as is required by law to be made by towns, to the clerk of the board of supervisors of said county, who shall lay the same before the board of supervisors at its annual meeting.

Return of unpaid taxes.

SECTION 92. The city treasurer shall return to the county treasurer of Juneau county, all uncollected taxes remaining on his tax roll in the same manner with same formalities, and with like effect as town treasurers under the general laws of this state, and he shall be credited with the uncollected taxes so returned in the same manner and with the same effect, as town treasurers are credited under the general laws of this state.

County treasurer to sell delinquent lands.

SECTION 93. The county treasurer shall sell all delinquent lands and lots returned from the city of Mauston, at the same time and in the same

manner as other delinquent lands are sold in the county.

Use of county jail.

SECTION 94. The use of the jail of Juneau county shall be granted to the city of Mauston, until otherwise provided, for the confinement of offenders; and every such offender shall be delivered to the sheriff of said county, for whose safe keeping, custody and delivery said sheriff shall be responsible, as in other cases.

Special taxes.

SECTION 95. Real estate, exempted from taxation by the laws of this state, shall be subject to special taxes or assessments, which become or shall be chargeable against particular property, as provided by this act.

Compensation of city officers.

SECTION 96. The city officers to be first elected under the provisions of this act, and their compensation not provided for by this act, shall receive a compensation for their services such sum as the common council shall determine, and the common council shall, in the month of March thereafter, determine by resolution the salary to be paid to the different officers for the next ensuing year, which compensation shall not be increased or diminished during the term of office of said officers; and in case of a neglect to determine said compensation, the said officers and each of them, shall receive the same compensation as their immediate predecessor.

Jury may be called.

SECTION 97. In city prosecutions for the violation of any ordinance, by-law or regulation of said city, either party may call a jury as prescribed by law in justices' courts in this state, and the trial shall proceed in the same manner and be governed by the same rules as in the trial of cases in justices' courts under the general laws of this state.

Repealing clause.

SECTION 98. If this act shall be adopted as the charter of the city of Mauston at the election, held for that purpose as herein provided, the charter of the village of Mauston, and all acts amendtory thereof, and all acts and parts of acts conflicting with the provisions of this act are hereby repealed.

Supervisor on county board.

SECTION 99. The supervisor elected under this act shall represent the city of Mauston on the county board of supervisors of Juneau county, and shall have the same powers and duties as other members of such board.

SECTION 100. This act shall be published by

the proper authorities of this state as a general law, and at the same time with the general laws of this state and immediately after its passage. Act, how published.

SECTION 101. This act shall take effect and be in force from and after its passage.

Approved March 30, 1883.

[No. 38, A.] [Published April 2, 1883.]

CHAPTER 181.

AN ACT to revise, codify and amend chapter 57, of the laws of 1874, entitled, "An act to incorporate the city of Columbus," and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER I.

THE CITY OF COLUMBUS — ITS CORPORATE POWERS.

SECTION 1. All that district of country in the county of Columbia and state of Wisconsin hereinafter described, is hereby set off and separated from the town of Columbus, and shall be a city by the name of Columbus, and the people now inhabiting and those who shall inhabit said district, shall be a municipal corporation by the name of the city of Columbus, and shall have the general powers possessed by municipal corporations at common law, and, in addition thereto, shall have and possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all the courts of law and equity, and shall have a common seal, and may alter the same at pleasure. Corporate name.

SECTION 2. The corporate authority of said city shall be vested in one principal officer, styled a mayor; in one board of aldermen, consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as may be created under this act. Corporate authority, in whom vested.

CHAPTER II.

CITY AND WARD BOUNDARIES.

City boundaries.

SECTION 1. The south half (½) of section number eleven (11); the south half (½) of section number twelve (12); all of section number thirteen (13); all of section number fourteen (14); the north half (½) of the north half (½) of section number twenty-three (23); and the north half (½) of the north half (½) of section number twenty-four (24); all being in township number ten (10) north, of range number twelve (12) east, in the county of Columbia and state of Wisconsin, shall be included in and constitute the limits of the city of Columbus.

Ward boundaries.

SECTION 2. This city shall be divided into three (3) wards, called First, Second and Third wards, limited and bounded as follows: All that portion of said city lying west and south of a straight line, drawn from a point at the intersection of James and Ludington streets, at the town well (so called), westerly through (to) the center of James street, and extended through the center of the Portage, Otsego and Columbus road northwesterly to the limits of the said city, and north and west of a line drawn from the town well aforesaid, southwesterly through Ludington street to the point of intersection of Ludington and Harrison streets; thence northwesterly down the center of the last named street to the center of Broadway; thence southwesterly through the center of Broadway to the center of the Columbus and Lodi roads; thence east through the center of the last named road to a point in the center of the Madison and Columbus road; thence southwesterly through the center of the last named road to the limits of the city, shall constitute the First ward. All that portion of said city lying south and east of the line last above described, and south and west of a line drawn from the town well aforesaid through the center of James street to the southeasterly terminus thereof, and thence extended due east through the center of Mills street to the county line, shall constitute the Second ward; and all that portion of said city lying north and east of a line drawn from the county line westerly through the center of Mills street to its intersection with James street; thence north-

westerly through the center of James street and the center of the Portage, Otsego and Columbus road to the city limits, shall constitute the Third ward.

CHAPTER III.

ELECTIONS.

Annual election, when held.

SECTION 1. The annual election for ward and city officers shall be held on the first Tuesday in April in each year, at such place in each ward as the common council shall designate; and the polls shall be open from nine o'clock in the forenoon or as soon thereafter as may be, till sunset, and ten days' notice shall be given by the city clerk of the time and place of holding such election, and of the officers to be elected, by publishing a notice in the official paper of the city, and posting up notices in at least two public places in each ward; but no election shall be deemed illegal for want of due notice, unless it shall appear that the omission to give such notice was wilful and fraudulent.

Terms of elective officers.

SECTION 2. The elective officers of said city shall be a mayor, a treasurer, a city clerk, a street commissioner and an assessor, elected by and for the city at large; and three aldermen, one supervisor to represent his ward in the board of supervisors of Columbia county, one justice of the peace and one constable elected by and for each ward. The officers for the city at large shall be qualified voters of said city, and the ward officers aforesaid shall be qualified voters of the ward for which they were elected. The marshal and all other officers necessary for the proper management of the affairs of said city, shall be elected by the common council. All officers shall, unless otherwise provided, hold their respective offices for the term of one year, and until their successors are elected and qualified; provided, however, the common council shall have power, for due cause, to remove from office any officer or agent under the city government, due notice being first given to the officer complained of. The justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. The mayor shall have power to suspend any police officer or watchman elected by the council, when complained of, for cause, until the council

shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being.

Special election to fill vacancies.

SECTION 3. Whenever a vacancy shall occur in the office of mayor or aldermen such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy shall hold his office and discharge the duties thereof for the unexpired term, and with the same rights and subject to the same liablilities as the person whose office he may be elected or appointed to fill.

Elections shall be by ballot.

SECTION 4. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

Qualified electors.

SECTION 5. All persons who are qualified electors of the state of Wisconsin, and who shall reside in the ward where they offer their vote, ten days next preceding such election, shall be deemed qualified electors of said city and ward.

Inspectors of election.

SECTION 6. The mayor, with the consent of the common council, shall appoint the inspectors and the clerks of all elections to be held in said city, or in any ward thereof; they shall take the usual oath or affirmation, as prescribed by the general laws of the state to be taken by the judges, inspectors and clerks of election; and the inspectors shall have the power to administer the necessary oaths, and fill vacancies in said board when necessary, at the time of opening the polls. All elections shall be held and conducted in the same manner, and under the same penalties as required by the laws of this state regarding elections. If, at the time fixed for opening the polls on the day of any election, such inspectors or clerks, or either of them, shall fail to appear or refuse to act, or have become incapable of acting by having removed from such election district, or for other cause, and the inspectors appearing shall refuse to fill any such vacancy, the electors present may fill the same by a *viva voce* vote.

SECTION 7. If either of the inspectors of the election shall suspect that any person offering to vote, does not possess the necessary qualifications of an elector, or if such vote be challenged by an elector, the inspectors, or either of them, before receiving any such vote, shall require the voter offering his vote to take the following oath: "You do solemnly swear (or affirm, as the case may be,) that you are twenty-one years of age, that you are a citizen of the United States (or have declared your intention to become a citizen, conformably with the laws of the United States, on the subject of naturalization); that you have resided within the state of Wisconsin one year; that you now are and have been for the last ten days, an actual resident within this city and ward, and that you have not voted at this election, and that you have made no bet or wager, or become directly interested in any bet or wager, depending on the result of this election." And if the person offering to vote shall take such oath, his vote shall be received, and if the person offering to vote shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter, shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any election, he shall be liable to prosecution, and on conviction shall forfeit and pay a sum not exceeding two hundred dollars ($200) nor less than twenty-five dollars ($25). It shall be the duty of the inspector to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes. And if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector or clerk shall be liable to prosecution, and on conviction thereof, shall severally forfeit and pay a sum not exceeding five hundred dollars ($500) nor less than one hundred dollars ($100). All such

Legal voters, and challenging votes.

indictments shall be tried in the circuit court of the county of Columbia.

Canvass of votes.

SECTION 8. When an election shall be closed, and the number of votes for each candidate or person voted for shall be counted and ascertained, the inspectors shall make a return thereof, stating therein the number of votes for each person for each and every office, and shall deliver, or cause to be delivered, such return to the city clerk, within two days after any election. The common council shall, on the third day after such election, meet and canvass said returns, and declare the result as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election, either personally or by a written notice, left at his usual and last place of residence within the city.

Special elections.

SECTION 9. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner, and the returns thereof shall be made in the same form, manner and time as general or annual elections.

Vacating office.

SECTION 10. Any officer removing from the city or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to file his oath of office as hereinafter provided, and to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

Tenure of office of present officers.

SECTION 11. All officers of the city, who are now in office shall continue in office until the expiration of the terms for which they were respectively elected. There shall be elected at each annual election one alderman for each ward, who shall hold his office for three years; and there shall be elected on the first Tuesday of April, 1884, and biennially thereafter, one justice of the peace for each ward, who shall hold his office for the term of two years. The term of every officer elected under this act shall commence on the second Tuesday of April of the year in which he was elected, unless otherwise provided, and shall, unless otherwise provided, continue for one year and until his successor is elected and qualified.

SECTION 12. The votes for alderman and all

other elective officers shall be on one ballot, and shall be deposited in one ballot box. Votes on one ballot.

SECTION 13. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election first being given. Council may order a new election in case of failure.

CHAPTER IV.

OFFICERS—THEIR POWERS AND DUTIES.

SECTION 1. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officer taking the same, with the city clerk; and the treasurer, clerk, marshal, and such other officers as the common council may direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Columbus a bond with at least two sureties, who shall justify in double the amount of the penal sum named in said bond, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and the common council may, from time to time, require new additional bonds, and remove from office any officer refusing or neglecting to give the same. Justices of the peace and constables shall qualify according to the general statutes, except that their official agreements shall be approved by a vote of the common council. The bonds of the respective officers shall be filed with the city clerk, except that the bond of the city clerk shall be filed with the city treasurer, and the official agreements of the justices shall be filed with the clerk of the circuit court of Columbia county. Duties and powers of officers.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the Duties of mayor.

police of the city; and in case of a riot or other disturbance or apparent necessity, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of a tie. The mayor shall have power to veto any ordinance or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the city clerk a copy of his objections; and it shall be the duty of the city clerk forthwith to notify the president of the council of such veto, who shall then, within three days after having received such notice, call a meeting of the common council to consider the objections; provided, that the mayor does not call a meeting within the specified time; and further provided, that no adjourned meeting of the council shall be held within said week. And in case the council shall not, within one week after the receipt of such objections, or such filing with the clerk, re-enact such ordinance, or pass such resolution, by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same, unless sooner approved, in writing, by the mayor or acting mayor, for the time being.

Election of president and his duties.

SECTION 3. At the first meeting of the common council in each year, or as soon thereafter as may be, but not later than the first meeting in May, it shall proceed to elect, by ballot, one of its members president, and in the absence of the mayor, the president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of mayor, except the signing of city bonds. In case both the mayor and president shall be absent at any meeting of the common council, it shall proceed to elect a temporary presiding officer, who for the time being shall discharge all the duties of the mayor. The president or temporary presiding officer, while presiding over the council or performing the duties of

mayor, shall be styled acting mayor, and the acts performed by them, or any of them, shall have the same force and validity as if performed by the mayor, except the signing of the city bonds; and the common council shall also, at its first meeting in each year, or as soon thereafter as may be, but not later than the first meeting in May, elect a marshal for the city, who shall hold his respective office for the term of one year, and until his successor is elected and qualified.

Duties of clerk.

SECTION 4. The clerk shall keep the corporate seal, and all the papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; and copies of all papers filed in his office, and transcripts from the records of the common council, certified to have been compared by him with the original, and to be a correct transcript therefrom, under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced. He shall be entitled to the following fees for copies and transcripts, to wit: Ten (10) cents per folio for copies and twenty-five (25) cents for each certificate; his compensation for all other duties shall be fixed by the common council. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, in books provided for that purpose. The clerk shall have power and authority to administer oaths or affirmations. He shall, if required, certify to all verifications of claims against the city free of charge. He may appoint a deputy in writing, under his hand, and file such appointment in his office, and such deputy in case of absence or disability of the clerk, shall have full power and authority to perform all the acts and duties appertaining to said office.

Justices of peace.

SECTION 5. The justices of the peace elected under this act shall have the same jurisdiction, and perform all the duties of justices of the peace; and they shall have sole and exclusive jurisdiction to hear complaints and to conduct all trials in criminal cases, cognizable before a justice of the peace, when the crime or offense has been committed within the city of Columbus, and in addition thereto they shall have jurisdiction in all cases arising under this act, and the ordinances,

resolutions and by-laws passed by the common council; they may hold their offices at any place within the city. All constables elected by virtue of this act shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns. The laws of this state relative to change of venue in justice courts, shall not apply to such courts of the city of Columbus in cases wherein, by this section, the justices of said city are given sole and exclusive jurisdiction.

Duties of treasurer.

SECTION 6. The treasurer of said city shall perform such duties and exercise such powers, as may be lawfully required of him by the ordinances of said city, or the laws of this state. All moneys raised, received, recovered or collected by means of any tax, license, penalty, fine, forfeiture or otherwise under the authority of this act, or which may belong to the said city, shall be paid into the city treasury, and shall not be drawn therefrom except by an order issued by order of the common council, and signed by the mayor and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the person from whom the amount of the several sums was received, which book shall, at all reasonable times, be open to the inspection of any person. He shall, every three months, and as often as the common council require, render to such council a minute account of the receipts and expenditures of his office, and at the expiration of his office he shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for his services receive the same compensation except as herein otherwise provided; and he shall have the same powers and be subject to the same liabilities, and be governed by the same laws as treasurers of towns; provided, that he shall receive no other fees except the compensation hereinafter provided.

Duties of marshal.

SECTION 7. The marshal shall attend all the meetings of the common council, and shall perform such duties as shall be prescribed by the common council for the preservation of the public

peace, and collection of license moneys and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary, in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue the offender and serve the process in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city, to apprehend, with or without warrant, and at any place within the city any person in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time bring such persons before competent authority for examination; and for such services he shall receive such fees as are allowed to constables for like services.

Other and further duties may be required.

SECTION 8. The common council shall have the power from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and fix the compensation of all officers elected or appointed by it. Such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office, or for which he is elected or appointed.

Notice in newspapers to be given.

SECTION 9. The city clerk shall give notice in writing to all publishers of newspapers published in said city, at least one week previous to the first annual meeting of the common council in each year, for sealed bids or proposals for the publishing of ordinances and other proceedings and matters required by this act, or by the ordinances of the city or by order of the common council to be published in a newspaper; and the city clerk shall, at the first annual meeting of the common council in each year, open all bids received for such publishing, and the common council shall then and there award the contract to the lowest responsible bidder, and the newspaper, published by said party or parties receiving said contract, shall

be the official paper of the city for the ensuing year; provided, however, such bid does not exceed the legal rates; and provided, further, that the common council shall have the right to reject all bids deemed exorbitant, and in such case the common council shall order the city clerk to receive new bids within ten days, to be opened in the manner aforesaid, at such time as the common council shall order; provided, however, that such time shall not be later than the next regular meeting.

Printer shall make affidavit.

SECTION 10. The city printer, immediately after the publication of any notice or ordinance, or resolution or by-law, which by this act is required to be published, shall file with the clerk of the city a copy of such publication with his affidavit, or the affidavit of his foreman, of the length of time the same has been published, and such affidavit shall be *prima facie* evidence of the publication of such notice, ordinance, by-law, or resolution, and the clerk shall file the same in his office.

Penalty for failure to deliver to successor.

SECTION 11. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects belonging to the city, or pertaining to the office he may have held, he shall forfeit and pay for the use of the city one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such books, papers and effects in the manner prescribed by the laws of this state.

No alderman shall be a party to any contract.

SECTION 12. No alderman shall be a party to, or interested in, any job or contract with the city, or any of the wards, and any contract in which any alderman may be so interested, shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the aldermen interested in the same.

Officers of the peace and their duties.

SECTION 13. The mayor, sheriff of Columbia county, and each and every alderman, justice of the peace, marshal, under sheriff and deputy sheriff of Columbia county, constable, policemen and watchmen, shall be officers of the peace, and may command the peace and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purposes may

command the assistance of all bystanders and if need be, of all citizens. And if any person, bystander or private citizen shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars ($50); and in case when the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present, in the order mentioned in this section, shall direct the proceedings.

Election of city surveyor.

SECTION 14. The common council may elect a city surveyor, and prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the city clerk, and shall be open to the inspection of the public at all reasonable hours.

Actions to be brought in corporate name of city.

SECTION 15. All actions to recover any penalty or forfeiture under this charter, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All forfeitures and penalties collected by any justice in such cases, shall be paid over to the city treasurer. Each justice shall report to the common council on the first Monday in January, April, July and October in each year, a statement of all such forfeitures and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer.

City assessor shall assess real and personal property.

SECTION 16. The city assessor shall assess the real and personal property of said city at the time and in the manner for assessing towns; and his compensation therefor shall be fixed by the common council.

How to resign.

SECTION 17. Any officer may resign his office by filing his written resignation with the clerk; and such resignation shall take effect, and his office shall be deemed vacant, from the time such resignation shall be accepted by the common council.

Performance of duty by street commissioner.

SECTION 18. The street commissioner shall perform such duties as shall be prescribed by the common council, and his compensation shall be fixed by the common council.

CHAPTER V.

THE COMMON COUNCIL—ITS GENERAL POWERS AND DUTIES.

What constitutes the common council.

SECTION 1. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services except as members of the board of equalization. The style of all ordinances shall be: "The mayor and common council of the city of Columbus do ordain," etc. The common council shall meet at such time and place as it by resolution shall direct. A majority of the aldermen shall constitute a quorum.

First annual meeting.

SECTION 2. The common council shall hold its first annual meeting in each year on the second Tuesday of April, and thereafter, stated meetings at such times as it shall appoint, and the mayor may call special meetings by notice to each of the members, to be served personally or left at their several places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members; to enforce the rules of its proceedings; to punish by fine or imprisonment, or both, by a vote of two-thirds of its members, any member for disorderly or contemptuous conduct, and by a vote of two-thirds of its members, may expel any member for cause.

Council to have control of finances.

SECTION 3. The common council shall have the management and control of the finances, and of all the property belonging to the city; and shall likewise in addition to the power herein vested in it,

Powers of council.

have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, resolutions and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce as it shall deem expedient, declaring and imposing penalties, and so enforce the same against any person or persons, who may violate any of the provisions of such ordinances, rules, resolutions and by-laws, and such ordinances, rules, resolutions and by-laws are hereby declared to be and have the force of law; provided, that they be

not repugnant to the constitution and laws of the United States or of this state, and for these purposes the common council shall have authority by ordinance, resolution or by-law:

1st. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses or theatrical performances, billiard or bowling saloons, nine or ten pin alleys or shooting galleries, and to provide for the abatement and removal of all nuisances, under the ordinances of the city, the laws of the state, or at common law; and may grant licenses for and regulate groceries, taverns, victualing houses and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in, or vending spirituous, vinous or fermented liquors, at retail, shall not be less than seventy-five ($75) nor more than two hundred dollars ($200), and for dealing in or vending spirituous, vinous or fermented liquors at wholesale, shall not be less than twenty-five ($25) nor more than fifty dollars ($50) per annum; and that all such licenses hereafter granted, shall run from the first day of May in each year to the first day of May following; provided, however, that when any such license may be applied for after that date, the same may be granted to expire on the said first day of May of each year, on the applicant paying *pro rata* therefor; but no license shall be granted for a longer term or period than one year. And further provided, that in case a license is surrendered before the close of the term for which the same was granted, the licensee shall not receive any rebate nor portion of the license money paid by him to the city. To license shows, saloons, etc.

2d. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice, or other games of chance for the purpose of gambling, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, fermented or vinous liquors unless duly licensed by the common council. Gambling.

3d. To prevent any riots, noise, disturbance or disorderly assemblages; suppress and restrain disorderly houses or groceries, and houses of ill- Riots and noise.

fame, and to authorize the destruction of all instruments used for the purpose of gaming.

Unwholesome places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses and gunpowder.

5th. To direct the location and management of slaughter houses and markets, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

Encumbering of streets.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood, or any other materials or substances whatever.

Horse racing, swimming, etc.

7th. To prevent horse racing, immoderate driving or riding in the streets, and to regulate the use and exhibition of stallions and jacks, the places and times of bathing and swimming in the waters within the limits of said city; and to prevent fast driving or riding over or upon any bridge in said city, and to prescribe a penalty for driving or riding over or on any such bridge faster than a walk.

Restrain cattle.

8th. To restrain, the running at large of cattle, mules, horses, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same, for the penalty incurred and the cost of proceedings.

Dogs.

9th. To prevent the running at large, and direct the muzzling of dogs, and to authorize the destruction of the same in a summary manner, when at large or unmuzzled contrary to the ordinances.

Unwholesome substances.

10th. To prevent any person from bringing, depositing or having within said city, any putrid carcasses or other unwholesome substances, and to require the removal of the same by any person, who shall have upon his premises any such substance, putrid or unsound beef, pork, fish, hides, skins or substances of any kind, and in default, to authorize the removal thereof by some competent officer at the expense of such person or persons.

Public pounds.

11th. To make and establish public pounds,

pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, to erect lamps, and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds and public buildings, with gas or otherwise.

12th. To establish and regulate boards of health, provide hospitals, pest houses and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use from taxation. Boards of health.

13th. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto. Bread.

14th. To prevent all persons riding or driving any ox, mule, cattle or other animal on the sidewalks in said city, or in any way doing damage to said sidewalks. Riding and driving on sidewalks.

15th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered, by the council, dangerous to the city or any property therein, or annoying to any citizen thereof. Fire-arms and crackers.

16th. To restrain drunkenness, or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Restrain drunkenness.

17th. To restrain and regulate runners and solicitors for stages, public houses, or other establishments, and to establish and regulate the police of the city. Runners and police.

18th. To establish public markets and to make rules for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations. Public markets.

19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, meat, butter, fish and other provisions. Provisions.

20th. To regulate the place and manner of weighing and selling hay and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same. Hay and fuel.

Snow and dirt. 21st. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct; and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Infectious diseases. 22d. To regulate, control and prevent the landing of persons from railroad cars or stages wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city.

Auctioneers. 23d. To license auctioneers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues.

Watchmen. 24th. To appoint watchmen and prescribe their duties.

Weights and measures. 25th. To provide for a standard of weights and measures, and for the punishment of the person using false weights and measures.

Monuments. 26th. To protect trees and monuments in said city.

Sewers. 27th. To prescribe and regulate the construction of sewers within said city.

Streets. 28th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, and alleys, and to keep them free from incumbrances and to protect them from injury.

Names of streets. 29th. To alter or change the name of any street in the city.

Make ordinances. 30th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof.

Packing houses. 31st. To direct the location and regulate and license breweries, tanneries and packing houses.

Public parks. 32d. To locate and lay out a public park, and to appropriate money for the improvement of the same; provided, however, that the annual appropriation for such purposes, shall not exceed one-

half of one mill of the assessed valuation of the property, in said city for that year.

How ordinances shall be passed.

SECTION 4. All ordinances shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall, within fifteen days after their passage, respectively, be published in the official paper of the city once, before the same shall be in force, and within fifteen days thereafter they shall be recorded by the city clerk in a book provided for that purpose; but before any of said ordinances shall be recorded, the publication thereof respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith.

Shall not bar or hinder suits.

SECTION 5. The powers conferred upon the council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than twenty-five pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, or houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of the city, are hereby declared and shall be deemed public or common nuisances.

Council shall audit accounts.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, and all other officers or agents of the city, at such times as it may deem proper, and also at the end of each year, and before the time for which the officers of the city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account, or present his books, funds, moneys and vouchers to the council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law, against any officer or agent of the city who may

be found delinquent or defaulting in his accounts, or in the discharge of his official duties and shall make a full record of all adjustments and settlements.

CHAPTER VI.

Council shall have control of funds.

SECTION 1. All funds in the treasury, except state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, except as herein otherwise provided. All orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be payable to the order of the person in whose favor they were drawn, or to bearer.

Annual tax.

SECTION 2. The common council shall, annually, levy upon the taxable property of said city, to defray the current expenses of the city and its schools, a tax sufficient for that purpose.

Issue of bonds.

SECTION 3. The common council shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases especially authorized by law, and duly authorized by a majority vote of the electors of the city, nor shall the common council issue in any one year orders upon the city treasurer, to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to build or repair bridges, a special tax may be levied for such purpose, not exceeding three thousand dollars ($3,000) in any one year, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected; provided further, that in temporary necessity the common council, by an affirmative vote of at least two-thirds of the aldermen elect, may borrow money in anticipation of the tax levy, not to exceed one mill of the assessed valuation of the assessed property in said city for such year, to be paid at a future day, not later than the first day of February next following the borrowing, with or without interest, such interest, however, not to exceed the rate of seven per centum per annum.

Levying of taxes.

SECTION 4. Taxes may be levied by the common council at any regular meeting, for the pay-

ment of any bonds, or any other evidence of debt hereafter issued or created in accordance with the provisions of this act, or by authority of law. Said taxes, when so levied, shall be collected at the same time as other city taxes.

Accounts to be verified.

SECTION 5. No account shall be allowed by the common council unless the same is verified by the claimant thereof, or some person in his behalf.

Right of appeal granted.

SECTION 6. When the claim of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of the council to the circuit court of the county of Columbia, by causing a written notice of such appeal to be served on the clerk of said city, within thirty days after the making of such decision, and executing a bond to said city, with sufficient surety, to be approved by the city clerk, the county judge of Columbia county, or a court commissioner of Columbia county, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court. The appellant shall, at the time of serving such notice of appeal, pay to the clerk one dollar for state tax, and one dollar for his fees for the return to be made by him, which costs shall, if the appellant is successful, be taxed against the city.

Duty of clerk when appeal is taken.

SECTION 7. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by ordinance or resolution of the said common council he may be required to do, and shall make out a brief return of the proceedings in the case before the council, with its decision thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of Columbia, and such appeal shall be entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner; provided however, that whenever an appeal is taken from an allowance made by the common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by the council, exclusive of interest upon such allowance, the appellant shall pay the cost of appeal, which shall be deducted from the amount of the recov-

ery; and when the amount of costs exceeds the sum recovered, judgment shall be entered against appellant for the amount of such excess.

No action unless an account is presented.

SECTION 8. No action shall be maintained by any person or corporation against the city of Columbus, upon any account, claim, demand or any cause of action wherein any money, judgment or judgment for damages is demanded, until such person or corporation shall have first presented his account, claim, demand or other cause of action duly verified, to the common council of the city of Columbus for allowance or adjustment. Neither the said city, nor any ward thereof, nor any officer of said city shall be liable for any damage that may happen, by reason of any defect in any sidewalk, bridge, highway or street in said city, unless the mayor or the common council shall have first had actual notice of such defect, and reasonable time thereafter to repair the same.

Decision of council to be final.

SECTION 9. The determination of the common council disallowing in whole or in part, any claim, demand or account of any person, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, demand or account, unless an appeal shall be taken from the decision and determination of the common council as hereinbefore provided, or unless the council shall consent and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that when the common council shall refuse or neglect to act upon any claim, demand or account, duly presented to it, this chapter shall not be construed so as to prevent the institution and maintenance of an action by said claimant against the city.

CHAPTER VII.

OPENING OF STREETS AND ALLEYS.

Opening of streets and alleys.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same as follows: Whenever ten or more freeholders residing in any ward shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging of the same, the courses and dis-

tances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to such petitioners, to be set forth in said petition. The common council shall thereupon cause notice of such application to be given to the occupant or occupants of such land, if any there be, or if any portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper four weeks successively, once in each week.

Appointment of jurors.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Columbia, for the appointment of twelve jurors, to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.

Proceedings to condemn land.

SECTION 3. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises to be specified in said precept, and to make returns under their hands to the city clerk, whether, in their judgment, it is necessary to take said premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath before some competent person, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. Said oath shall be filed with the city clerk.

Service of precept.

SECTION 4. The city marshal shall serve the precept immediately on the jurors therein named, by reading the same to everyone that can be

found; and immediately after such service, he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

Other jurors shall be appointed.

SECTION 5. If any of the jurors so appointed cannot be found, or shall be disqualified from acting or shall refuse to act, the judge or court commissioner shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

Jurors shall view premises in a body.

SECTION 6. The said jurors, after having taken the oath as hereinbefore prescribed, shall fix a time and place, when and where they will hear any testimony to be offered by any party interested; they shall give notice of such time and place to every party interested, at least forty-eight hours before the time of the meeting. At the specified time they shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for public use, which said report, testimony and precept shall be filed with the city clerk within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order in its proceedings confirming said report, and directing the same jurors, within twenty days thereafter, or at such future time as shall be necessary, and upon notice of at least forty-eight hours to the parties interested, to again view said premises for the purpose of ascertaining and determining the amount of the damages, to be paid to the owner or owners of said property proposed to be taken, and to assess such damages and file their report, within the time limited, with the city clerk.

In case there is a building on premises.

SECTION 7. If there should be any building in whole or in part upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the value

of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and, secondly, the value of such building to him when removed.

Ten days' notice to be given.

SECTION 8. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all parties interested shall be given by publication in the official paper three successive weeks, once each week. Such notice shall specify the building and the award of the jurors. It shall require the parties interested to appear by a day therein named, or give notice of their election to the common council, either to accept the award of the jurors and allow such building to be taken with the land appropriated, or their intention to remove such building. They shall have such time for this purpose as the common council may allow.

In case owner refuses to take building at value.

SECTION 9. If the owner shall refuse to take the building at the value when removed, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner, or deposited to his use.

Jurors shall assess damages separately.

SECTION 10. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment, and to determine and appraise to the owner or owners, the actual value in money of the real estate so proposed to be taken, and the injury arising to them respectively in consequence of the taking thereof, which shall be awarded to such owners respectively as damages. In the estimates of the damages to the lands, the jurors shall include the value of the building or buildings (if the property of the owner of such lands), as estimated by them as aforesaid, less the proceeds of the sale thereof, or, if taken by the owner at the value when removed in such case, they shall only include the difference between such value and the whole esti-

mated value of such building or buildings, according to section 7 of this chapter.

If the land or buildings belong to different persons.

SECTION 11. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment, mortgage or other incumbrance, or if there be any estate in it less than an estate in fee, the injury done to such persons or interests respectively, shall be awarded to them by the jurors.

Award of jurors shall be signed.

SECTION 12. The award of said jurors shall be signed by them and returned, together with the testimony taken, and the precept of the city clerk, within the time limited in such precept.

Right of appeal

SECTION 13. Any person whose property is taken, or against whom any assessment is made, may, within twenty days from the return of the jurors to the city clerk, appeal from said assessment of damages to the circuit court of Columbia county, by causing a written notice of such appeal to be served on the city clerk, and executing a bond in the manner prescribed in section 6, of chapter 6, of this act, and such appeal shall be tried by jury. The common council shall also have the right to appeal, by filing with the clerk a notice thereof within twenty days, as aforesaid.

Land shall not be appropriated until damages are tendered.

SECTION 14. The land required to be taken for the purposes mentioned in this chapter, shall not be appropriated until the damages awarded therefor to the owner thereof, or party entitled thereto, shall be paid or tendered to the owner or party entitled thereto, or his agent, or in case the said owner or party entitled thereto, or agent cannot be found, or is unknown, deposited to his or their credit, in some safe place of deposit, and then and not before such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds opened or laid out.

To be paid within one year.

SECTION 15. The damages assessed shall be paid or tendered or deposited, as herein required, within one year from the confirmation of such assessment and report; and if not so paid, tendered or deposited, all the proceedings in such case shall be void; and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order in its pro-

ceedings to take and appropriate such lands for the purposes required.

Covenants shall cease on land taken.

SECTION 16. When the whole of any tract or lot or other premises, under lease or other contract, shall be taken by virtue of this chapter, all the covenants, contracts or engagements between landlord and tenant, or any other contracting parties, touching the same or any part thereof, shall, after the expiration of the time for appeal as herein provided, respectively cease, and be absolutely discharged.

When only a part is taken.

SECTION 17. When only a part of a lot or tract of land or other premises, so under lease or other contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, after the expiration of the time for appeal as herein provided, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

In case of minor.

SECTION 18. When any known owner of lands or tenements affected by any proceedings under this chapter shall be an infant, or labor under legal disability, the judge of the circuit court of Columbia county, or the county judge of Columbia county, may, upon the application of the common council, or such party or his next friend, appoint a guardian for such party, and all notices required by this chapter shall be served upon such guardian.

Survey to be made.

SECTION 19. Whenever any public grounds, streets or alleys shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk, and a certified copy thereof shall be recorded and filed in the office of the register of deeds of Columbia county.

CHAPTER VIII.

ASSESSING, LEVYING AND COLLECTING OF TAXES.

Assessing and collection of taxes.

SECTION 1. All property, real and personal, within the city, except such as may be exempt

by the laws of the state, shall be subject to taxation for the support of the city government, its schools, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided, and the assessor elected under this act shall have and possess the same powers that are or may be conferred upon assessors of towns, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor, and make such rules and regulations in relation to revising, altering, or adding to such rolls, as it may, from time to time, deem advisable.

Assessment roll

SECTION 2. When the assessment roll shall be completed, the assessor shall give one week's notice thereof in the official paper, and shall fix a time and convenient place where he will hear any objections of parties, deeming themselves aggrieved by such assessment, and after hearing the same, the assessor shall make such alterations or reductions as justice or equity shall require; provided, the time of hearing such objection shall not be more than one week from the expiration of such notice.

Return of assessment roll.

SECTION 3. Within one week after the time limited for the hearing of such objections, the assessor shall return the said assessment roll to the board of equalization of the city.

Omissions.

SECTION 4. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of any of the three next previous years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with, had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whatsoever hands they may have come. Whenever a re-assessment shall become

necessary for any cause mentioned in the revised statutes, or any law amendatory thereof, the common council shall make such re-assessment conformably to the general laws of the state.

Board of equalization.

SECTION 5. The mayor, city clerk, city assessor, and the three supervisors shall constitute the city board of equalization, and shall meet on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards of review and equalization are by law required to proceed, as far as the same is applicable, reviewing, correcting and equalizing the assessment roll of the city. The mayor shall be president of the board of equalization and the city clerk the clerk thereof.

Roll shall be revised and corrected.

SECTION 6. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk on or before the first Monday in August in each year. Thereafter and before the first day of December in each year, the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the authorized per centage, particularly specifying the purposes for which the same are levied.

Changes to be recorded.

SECTION 7. All changes of the assessment roll by the board of equalization shall be duly recorded by the city clerk.

Lien upon property.

SECTION 8. All taxes and assessments, general or special levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed, and on all personal property of any person or body politic assessed for personal taxes, from the delivery of the warrant for the collection thereof until such taxes shall be paid, and no sale or transfer of such real or personal estate shall affect such lien; any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon personal property.

City clerk to carry out taxes.

SECTION 9. It shall be the duty of the city clerk, immediately after having received the corrected assessment roll, and a certificate of the amount of state, county and county school taxes apportioned to said city, to calculate and carry out the total amount of such taxes, together with all the city and other local taxes, adding thereto five per cent. for the expense of collection, in an additional

column prepared for that purpose in the assessment roll, entering opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent, when less than one-half, otherwise reckoning said fraction as a cent.

Duplicate copies.

SECTION 10. The city clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, called the tax roll, and deliver the same to the treasurer on or before the second Monday in December in each year, provided that the city treasurer has filed with the clerk, the receipt of the county treasurer for his bond for state and county taxes.

SECTION 11. To each assessment roll and tax roll, a warrant under the hand of the mayor and city clerk, and the corporate seal of said city shall be annexed, substantially in the following form:

Form of warrant.

THE STATE OF WISCONSIN,

To A. B., treasurer of the city of Columbus, in the county of Columbia:

You are hereby commanded to collect from each of the persons and corporations named in the annexed tax roll, and from the owners or occupants named of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation, upon whom any such sum or tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected, after deducting your fee, you are first to pay to the treasurer of said county, on or before the last Monday in January next, the sum of ——— dollars for state taxes; you are to retain and pay out as city treasurer, according to law, the sum of ——— dollars; and the balance of said moneys you are required to pay to said treasurer for county purposes, on or before the day above specified; by which day you are further required to make return to said treasurer of this warrant, with said roll annexed, together with your doings thereon, as required by law.

Given under our hands and the corporate seal of the city, this ——— day of ———, A. D. 18—.

J. H., Mayor.

[L. S.] C. D., City Clerk.

Prima facie evidence.

SECTION 12. The said assessment roll or tax roll and warrant thereto attached, or either of them, shall be *prima facie* evidence in all courts, that the lands and persons therein named were subject to taxation, and that the assessment was just and equal.

General laws to be in force.

SECTION 13. All the general laws of this state which are now, or may hereafter, be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes, and all assessments of said city in the same manner as is required by law of the town treasurers to collect taxes, except as herein provided.

Notice to be given.

SECTION 14. Upon the receipt of any tax roll and warrant by the treasurer, he shall give public notice, in the official paper of said city, that such tax list (describing for what purpose such taxes are levied) has been committed to him for collection, and that he will receive payment for taxes at his office at any time prior to the tenth day of January, next ensuing the date of said notice. If the taxes are not paid within said time, he may then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written notices in as many public places in said city.

Treasurer's fees.

SECTION 15. The treasurer shall be entitled to receive and collect as fees for the collection of taxes, two per cent. on all taxes collected by or paid to him, prior to the tenth day of January in each year, and five per cent. upon all taxes or assessments paid to or collected by him after the said tenth day of January; and in case of a distress or sale made by him of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution; the city treasurer shall collect the fees hereinbefore prescribed, and shall keep, in a book to be provided for that purpose, a true account and statement of all fees by him

received, as city treasurer, from any source whatever, and such book shall be open at all reasonable times to the inspection of any person; and the city treasurer shall, when required, make report to the common council, duly certified on oath, of all fees or other moneys received by him as treasurer, and he shall receive no other or further compensation for his services as treasurer, than as hereinbefore provided, except that the common council shall provide him all necessary books, blanks and stationery requisite to the discharge of his duties.

State tax to be paid.

SECTION 16. The treasurer shall, on or before the last Monday in January in each year, pay to the county treasurer the state tax assessed upon the lots and tracts of land, and personal property in said city.

Only directory.

SECTION 17. All the directions hereby given for the assessing of lands and the levying and collecting of taxes and assessments, shall be deemed only directory, and no error or informality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Proceedings to set aside assessment.

SECTION 18. No person shall be permitted to institute any proceedings to set aside any assessment or special tax, hereafter levied or assessed upon any lot or tract, or to set aside, or to set up or interpose any objections to the title derived by virtue of any tax deed, executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such person shall first pay, or tender to the proper party, or deposit for his use with the city treasurer, the amount of all state, county and city taxes that remain unpaid upon such lot or tract, together with the interest and charges thereon.

Delinquent tax payers.

SECTION 19. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things according to the revised statutes of this state, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as are provided by said revised statutes.

CHAPTER IX.

FIRE DEPARTMENT.

Fire department.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of other materials, that shall not be considered fire proof, shall not be erected or repaired, and to direct that all and every building within the limits prescribed, shall be made and constructed of fire proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

Construction of chimneys.

SECTION 2. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe condition, when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time as it shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fire; to regulate and prevent the use of fireworks and firearms; to compel the owners and occupants of buildings to have scuttles in the roof, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire, all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of fires, as the common council may deem expedient, and to provide penalties for the violation of any resolution or ordinance passed under this section.

Purchase fire-engines.

SECTION 3. The common council shall have full power to purchase fire engines and other fire ap-

paratus, and to authorize the formation of fire-engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited and their apparatus to be delivered up. The common council shall appoint one chief engineer and one assistant chief engineer of the fire department, at such times as it, by ordinance, may ordain. The city clerk and city treasurer shall be ex-officio, respectively, clerk and treasurer of the fire department of said city. Each company shall not exceed seventy able-bodied men, between the ages of eighteen and fifty years, and may elect its own officers, except chief engineer and assistant engineer, who shall be appointed by the council, and form its own by-laws, not inconsistent with the laws of this state, or the ordinance and regulations of said city, and shall be formed only by voluntary enlistments. Every member of said company hereby authorized to be formed, shall be exempt from highway work and poll tax, and from serving on juries, and military duty, except in case of war, insurrection, or invasion, during the continuance of such membership; and any person having served for the term of ten years, in either of such companies, shall be forever thereafter exempt from poll tax, and military and jury duty, except as in cases before mentioned.

Fire wardens.

SECTION 4. The common council shall appoint one fire warden for the city, who shall perform such duties as the common council may prescribe, and he may at any time enter into any building, house, store, barn or enclosure, for the purpose of inspecting the same.

Fines to be paid into treasury for fire department.

SECTION 5. One-half of the net proceeds of all fines and penalties recovered and collected for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid by the city treasurer to the fire department.

Penalty for refusing to obey lawful orders of engineer.

SECTION 6. When any person shall refuse to obey the lawful order of any engineer, fire warden, or alderman of the city, the mayor or city marshal, at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the marshal, constable, or watchman, or any citizen, to arrest such person, and to confine him temporarily in any safe place until such fire shall be extinguished; and in the same manner such officers.

or any of them, may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any person who shall refuse to arrest, or aid in arresting any person so refusing, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars. ($20.)

Sack company and its duties.

SECTION 7. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such name as it may select and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineers. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Columbus, and are hereby vested with all the power and authority which now is, or may be hereafter vested in any other police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department, except exemption from jury duty At fires they shall take charge of all property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as they deem necessary, not inconsistent with the laws of this state or the ordinances of said city. The members thereof shall not be entitled to any compensation for any service rendered in their official capacity. They shall, in case of riot or other disturbances of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

City treasurer of fire department.

SECTION 8. The city treasurer of the fire department shall receive and pay out all moneys belonging to said department. Such moneys shall only be paid out on order signed by the chief engineer, or acting chief engineer, and countersigned by the clerk of the department.

Fire companies to have clerks and treasurers.

SECTION 9. There shall be elected by the members of each company, annually, at their respective annual meetings, a clerk and a treasurer of each company. The respective clerks shall, on the first Monday in May and on the first Monday

in November, in each year, return to the city clerk a list containing the name of each member of their respective companies; and when any member of either of said companies shall cease to be a member thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk, and his certificate returned.

Clerk to keep records and other duties.

SECTION 10. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter; and no person shall be exempt from jury duty unless the name is entered on such record. In case any person shall for any cause cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the clerk of the board of supervisors of the county of Columbia, a list of all persons who are members of either or all of said companies exempt from jury duty, on or before the day now appointed, or which may hereafter be appointed for the annual meetings of said board, and said board shall not place the names of such persons on the jury list for the ensuing year.

Tax on insurance companies.

SECTION 11. There shall be paid on the first day of February in each year, to the treasurer of the fire department of the city of Columbus, by every underwriter who shall effect any insurance, and by every person who shall act as agent for any fire insurance corporation, or underwriter whatever, a duty of two per centum upon the amount of all premiums, or which during the year or a part of the year ending on the next preceding first day of January, shall have been received by such underwriter or agent, or by any other person for him, or shall have been agreed to be paid for any insurance effected, or agreed to be effected, or promised by him or such agent or otherwise, against loss or injury by fire in said city. Any person who shall wilfully omit to pay such duty shall, for each offense, forfeit twenty-five dollars ($25), to be collected by the treasurer of the fire department for the use of said department.

CHAPTER X.

ACTION TO RECOVER PENALTIES, ETC.

Regarding actions to recover penalties.

SECTION 1. All actions brought to recover any fine, penalty or forfeiture under this act, or the ordinances, by-laws or police or health regulations

made in pursuance thereof, shall be brought in the corporate name of the city. It shall be sufficient to allege in the complaint that the defendant has violated the law, stating the chapter and section of this act, or the section of the ordinance, by-law or regulation, which is claimed to have been violated; and when such section, by-law or regulation imposes a fine, penalty or forfeiture for several offenses, or delinquencies, the complaint shall specify the particular offense or delinquency, for which the action is brought.

Prosecutions.

SECTION 2. All prosecutions for a violation of any of the provisions of this act, or of any ordinance, by-law or regulation of the city, shall be commenced by sworn complaint and warrant. The complaint shall be made on the oath of the complainant, and no other affidavit shall be necessary.

Form of complaint.

SECTION 3. The complaint may be substantially in the following form:

The city of Columbus against ——— ———.

STATE OF WISCONSIN, } ss. In Justice's Court.
County of Columbia. }

A. B., being duly sworn, complains on oath before J. P., justice of the peace in and for the city of Columbus, in said county, that C. D., on the ——— day of ———, 18—, at said city, did violate (section —— of chapter —— of this act, or section —— of ordinance No. ——, passed ——— ——, 18—, describing such ordinance by its title) —— (describing the special act complained of), which said section is now in force, as this complainant verily believes; and prays that the said C. D. may be arrested and held to answer to said city of Columbus therefor.

A. B.

Subscribed and sworn to before me this ——— day of ———, 18—.

J. P., Justice of the Peace.

Form of warrant.

SECTION 4. Upon filing such complaint, and after examination of the complainant under oath, the justice of the peace shall issue a warrant, which may be substantially in the following form:

COUNTY OF COLUMBIA, } ss.
City of Columbus. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Columbus, greeting:

Whereas, A. B., has this day complained to me

in writing, on oath, that C. D., on the ——— day of ———, 18—, at the city of Columbus, in said county, did violate (state as in the complaint, which said section is now in force, as the complainant verily believes; therefore you are commanded to arrest the said C. D., and bring him before me forthwith, to answer to the city of Columbus on the complaint aforesaid.

Given under my hand this ——— day of ———, 18—. J. P., Justice of the Peace.

How warrant is served.

SECTION 5. Such warrant shall be served in the same manner as criminal warrants are served, issued by a justice of the peace. Upon return of the warrant with the accused, the justice may proceed summarily with the case, unless it be adjourned by consent or for cause; and the complainant may consent to an adjournment in behalf of the city. If the case be adjourned, the defendant, if required by court so to do, shall recognize with surety to be approved by the court, for his appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Columbia county. The complaint made as aforesaid shall be the only complaint required, and the plea of not guilty shall put in issue all subject matter which pertains to the defense of the action.

Names of jurors to be made.

SECTION 6. After joining of issue, and before the court shall proceed to an investigation of the merits of the case, if a jury be demanded by either the complainant or defendant, the court shall direct the marshal or any constable of the city, to make a list in writing of the names of eighteen inhabitants of the city, qualified to serve as jurors in the courts of record of this state, from which list the complainant and the defendant alternately shall each strike off six names, and all other provisions of law relating to jury trials of civil cases before justices of the peace, shall be applicable to jury trials under this charter.

Printed copy to be evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on trial of all cases cognizable before any court of this state.

SECTION 8. Witnesses in behalf of the city, and jurors shall attend before a justice of the peace in said city, in all actions brought in the name of the city, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment. Witnesses and jurors to attend without payment of fees.

SECTION 9. In city prosecutions the verdict of the jury, or the findings of the court shall be guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue a commitment, and shall determine and enter upon his docket the length of time the defendant shall be imprisoned, in case the fine, penalty or forfeiture, together with all costs of prosecution and committal are not paid, which time shall not be less than twenty days nor exceed six months, and also insert such time in the commitment. Finding of jurors.

SECTION 10. Such commitment may be substantially in the following form: Form of commitment.

COLUMBIA COUNTY, } ss.
City of Columbus. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Columbus, in said county, and to the keeper of the common jail of said county:

Whereas, the city of Columbus, on the ——— day of ———, 18—, recovered a judgment before the undersigned justice of the peace in and for the city of Columbus, against one C. D., for the sum of ——— dollars ($—) fine (or penalty or forfeiture, as the case may be), and for ——— dollars, costs of suit, for the violation of (section ——— of chapter ——— of this act, or section ——— of ordinance No. ———, stating the offense as in the complaint), and whereas, it was further ordered and adjudged that the defendant in default of the payment of such fine (or penalty or forfeiture) and costs be imprisoned in the common jail of Columbia county until such fine (or penalty or forfeiture), together with all costs, fees and legal

expenses be paid, not exceeding, however, the term of ——— days; and whereas, such sum of money may not have been paid, now, therefore, you are commanded forthwith to take the body of said C. D. and him convey and deliver to the keeper of the common jail of Columbia county; and the said keeper is hereby commanded to receive and keep in custody in said jail the said C. D., for the term of ——— days, unless the aforesaid sums of money and all legal expenses and fees are sooner discharged, or he be discharged by due course of law.

Given under my hand at the city of Columbus, this ——— day of ———, 18—.

J. P., Justice of the Peace.

Defendant may appeal.

SECTION 11. In all cases where judgment is rendered against a defendant for the recovery of fines, forfeitures or penalties mentioned in this act, or the ordinances now in force or hereafter to be ordained, the defendant may appeal from such judgment to the circuit court of the county of Columbia; provided, such defendant, within twenty-four hours after the judgment is rendered, enter into a recognizance, with two or more sufficient sureties, to be approved by such justice, conditioned to appear before said court, and that in case the judgment appealed from should be affirmed, or the appeal be dismissed, the sureties will pay the judgment and costs. The justice, from whose judgment an appeal shall be taken, shall, within ten days, make a return of the proceedings had before him, to the circuit court of Columbia county, and at the same time file with the clerk of said court, all papers in the action, together with a certified copy of his docket in the case. He shall also give notice of the appeal to the common council. The city may appeal from any such judgment as in civil cases before justices of the peace. The state tax and the fees of the justice shall be paid by the city, and included afterward in the costs against defendant, if the judgment is rendered against him. In case of appeal on the part of the city, it shall not be necessary for the city to give any bond or surety on such appeal.

Appeal to stand for trial.

SECTION 12. Said appeal shall stand for trial by jury, unless a jury be waived, in the manner provided by law, in said circuit court, at the next term thereof after the return has been made as

provided in the preceding section, and notice of trial may be given by either party as provided in actions in circuit court.

Court shall inflict the penalty if affirmed.

SECTION 13. If the judgment of the justice shall be affirmed, or if upon the trial the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, resolution, by-law or regulation under which he is prosecuted, and enter judgment against him and his sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of torts.

Shall not work incompetency.

SECTION 14. No person shall be an incompetent judge, justice, juror or witness, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Service of process.

SECTION 15. When any suit or action shall be commenced against said city, the service of process may be made by leaving a copy of the summons with the mayor and clerk of said city, and it shall be the duty of said mayor forthwith to inform the common council of such service.

Fines to be paid into city treasury.

SECTION 16. All fines, penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city, except as provided in chapter 9 of this act.

Property exempt from taxation.

SECTION 17. All fire engines, hose carts, hooks and ladders, and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action, or on any judgment wherein the said city shall be a party.

Judgments against the city.

SECTION 18. When a final judgment shall be recovered against the city of Columbus or against any city officer, in any action by or against him in his name of office, when the same should be paid by the city, the judgment creditor, his assignee or attorney, may file with the city clerk a certified transcript of such judgment or of the docket thereof, together with his affidavit, showing the amount due thereon, and all payments made, if any, and that the judgment has not been appealed from or removed to another court, or if appealed or removed, that it has been affirmed;

and thereupon the city clerk shall assess on the next tax roll, the amount of such judgment with interest from the date of such judgment until the first day of February next ensuing the date of the tax warrant; and the said judgment and interest shall be collected and returned as other taxes, and when collected shall be paid to the party entitled thereto on the first day of February after the levy of the taxes. But if such judgment be appealed from according to law, before the city taxes shall be levied according to law, then such judgment shall not be included in such tax roll; provided, however, that the common council at its next regular meeting after such transcript or copy of docket has been filed with the clerk, may provide for the payment of the judgment out of the general fund of the city. No execution shall issue on any such judgment, except by leave of court, on motion, after failure of the remedy provided for in this section.

City property free from attachment.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, or on any judgment against said city.

Pardon power by mayor.

SECTION 20. The mayor shall have power to grant pardons or commutations after convictions, for offenses against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting, with the reasons therefor. No penalty or judgment recovered in favor of the city, except such as may be recovered in justice court for violation of city ordinances, shall be remitted or discharged, except by a two-thirds vote of all the aldermen elect.

CHAPTER XI.

IMPROVEMENT OF STREETS AND SIDEWALKS.

Street improvements.

SECTION 1. Every ordinance providing for the construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving of any street, at the expense, in whole, or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate

committee, and any such ordinance, shall not be passed or adopted, sooner than fourteen days after the introduction thereof, nor until one week after the proceedings of the council had relative thereto, at the meeting when such ordinance was introduced, shall have been published in the official paper of said city.

Grade of streets.

SECTION 2. The common council shall have power to establish the grade of the streets of said city, and to change and re-establish such grade as it shall deem expedient; provided, that whenever it shall change or alter the grade of any street, any person who shall claim to have sustained damages by such change or alteration of grade, shall have his right of action against the city for the recovery of such damages.

Duty of city marshal.

SECTION 3. It shall be the duty of the city marshal to see that all the ordinances of the city relating to the obstructions and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water courses in said city are duly observed and kept. The street committee shall have a general supervision over all works let by contract, for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide.

Sidewalks to be constructed on grade.

SECTION 4. Sidewalks shall be constructed or reconstructed upon the proper established grade of any street in said city, of such width, in such manner, of such materials and in such time as the common council, by ordinance, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered; if the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time as so directed, the common council may cause the same to be constructed forthwith at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest responsible bidder, and notice shall be given by publication in the official paper of the city, at least one week, of the time, place and manner of receiving such bids. In case of failure to receive any bid, or in case the common council shall reject the bid or bids received as exorbitant, or in case the bidder be deemed irresponsible, then the common council, by an affirmative vote of the aldermen-elect, shall have power to order the

building or reconstructing of such sidewalk, to be done by the street commissioner, who, after the work is completed, shall make a full and detailed report, under oath, to the city clerk of the expense of such work. The common council shall levy a special tax upon each lot or piece of ground in front of which any sidewalk shall be so constructed, sufficient to pay the cost of constructing the same; provided, that lands used exclusively for farm purposes, not platted, shall not be liable for, nor the owner or owners thereof be required to build or maintain sidewalks along or fronting such lands, under the provisions of this chapter.

Respecting repair of sidewalks.

SECTION 5. Whenever a sidewalk shall be out of repair, or be in a dangerous condition, the mayor or any alderman, or the street commissioner, or the marshal, shall serve a written notice upon the owner or occupant of the lot adjacent to such defective sidewalk, if a resident of the city, to immediately repair the same; and if said owner or occupant shall fail to repair the same within a reasonable time, not exceeding twenty-four hours, then in that case, the defective sidewalk shall be repaired by the street commissioner at the expense of the lot adjoining said defective sidewalk. When the repair is completed, the street commissioner shall make out an itemized bill of the costs of such repair, specifying the lot or block or piece or parcel of land in front of which said work was done, duly verified by oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Columbus, for payment, or to his agent, or to the occupant of such lot or lots or parts of lots; and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same within ten days, then the clerk shall report the fact to the council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land, does not reside in the city of Columbus or has no agent then known to the city clerk or street commissioner, then the city clerk shall report said account to the common council, who shall thereupon levy a special tax to pay for the same in the same manner as before provided.

SECTION 6. The common council shall have power, and may, in its discretion, by a vote of a majority of its members, advertise and let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of any gutter, or the making of improvement on or along any street or highway in said city, which shall have been ordered, and levy a tax upon each lot or piece of ground in front of which said gutter or improvement shall have been ordered, and constructed under such contract, sufficient to pay the cost of constructing the same, without giving notice, requiring the owner or owners of such lot or lots or pieces of ground to construct the same.

Construction of gutters to be let by contract.

SECTION 7. The common council shall have power, by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading and paving and repairing and cleansing of streets and parts or streets, alleys, public grounds, reservoirs, gutters and sewers, in the manner hereinafter mentioned, and direct and control the persons employed thereon.

Costs of surveying streets to be paid by city.

SECTION 8. The costs and expenses of surveying streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvement, shall be chargeable to and payable by the city. The costs and expenses of opening, grading, graveling, planking or paving of streets and alleys shall be paid out of the road fund hereinafter provided for; provided, however, that the common council may, by ordinance, make such costs and expenses, or part thereof, as it may direct, chargeable to the lots or parcels of land fronting on such street or alley, or that each lot or parcel of land shall pay for work between the front of such lot or parcel of land, and the center of such street. Sewers and gutters may be ordered by ordinance to be built at the expense of the lots or parts of lots, which may be benefited by such sewers or gutters, and which shall front upon the side of the street along which such sewer or gutter shall be constructed; provided, however, that when sewers or gutters are constructed through alleys, no lot shall be charged therefor, except those situated in the block through which such sewers or gutters may be constructed; and provided further, that in all cases when improvements or work of any kind are chargeable,

by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds shall be made and paid for by the city, in proportion to the width of the street, alley or public ground. Lots shall be liable as in this chapter provided, for the improvement of streets, to the center of the street on which they abut or join, and corner lots for all sidewalks up to the crossings or crosswalks.

Street committee, how elected.

SECTION 9. The street committee, which shall be elected by the common council from its members, at the first regular meeting in each year, shall, on or before the first day of May, in each year, and afterwards when necessary, or when required by the common council, make a report to the common council of all necessary and needed improvements in the streets and highways within the city, for the next ensuing year, and when, in the opinion of the street committee, the grading or graveling or stoning of streets or highways shall be necessary in a width over sixteen feet, they shall submit such suggestion to the common council, and not commence on such work unless so authorized by the common council.

Estimates of cost of improvement first to be made.

SECTION 10. Whenever the common council shall determine to make any public improvement, chargeable upon any lot or lots or parcels of land, as authorized by this chapter, it shall cause to be made an estimate of the whole expense thereof, and of the amount thereof to be assessed and charged to each lot and parcel of land, and in case of grading, of the number of cubic yards to be filled in or excavated in front of each lot, and the proportion thereof across each street, alley or public ground aforesaid; and such estimate shall be filed in the office of the city clerk, for the inspection of the parties interested before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such time, and under such conditions, and to give such security for the performance of such work as they shall direct; such contract when approved by the council, to be exe-

cuted on the part of the city by the mayor and countersigned by the city clerk; notice of the time and place of receiving such bids to be published for one week in the official paper of said city. The common council, instead of letting such work by contract to the lowest bidder, may, by an affirmative vote of two-thirds of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvement, to be done directly by and under the supervision of the street committee, at the uniform expense, in whole or in part, of the lots or parcels of land abutting or fronting on such street or public improvement.

Where deep cutting is called for.

SECTION 11. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots and land fronting on such deep cutting, or filling shall deem themselves aggrieved thereby, and shall represent to the council, in writing, that the expenses of such excavation or filling will exceed the proportion, that should be justly or equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders, not residents of the ward nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if, in their opinion, the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the streets, so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof, in writing, as soon as practicable, within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided; in case such owners shall not do such work, the remainder shall be assessed upon the lots benefited by such improvement, in proportion to their respective benefit, as determined by said jury. The sum so assessed shall become a lien upon the

premises assessed, and shall be collected therefrom as a special assessment in the same manner as other special assessments, for improvements are collected; provided, that should said jury find that said petitioners were not entitled to any division of the expense, so assessed upon their lots or parcels of land, then the expenses of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same upon the filing of the petition; provided, also, that the petition of no owner feeling himself aggrieved shall be received, unless the same be presented within twenty days after the publication of the notice requiring the same to be done; and, provided further, that when it shall appear to the council that any such lands belong to non-residents, infants, or persons laboring under legal disability, who shall not be represented by an agent, or guardian, or not to be benefited by the making of streets in front of such lots or lands, to the amount of the costs and expenses thereof, it shall then be the duty of said council to cause to be summoned a jury, as herein provided.

All work to be done under supervision of street committee.

SECTION 12. All work provided for in this chapter shall be done under the supervision of the street committee, and shall be approved by it before it shall be accepted by the council; provided, that, whenever upon complaint made to, and the common council shall deem any lots injurious to public health, by reason of stagnant water, or from any other cause, it may order that such nuisance be abated by draining or filling such lot, or in any other manner, by the owner or occupant of such lot, and upon their failure so to do, the street committee, by order of the common council, may abate, or cause to be abated, at the expense of such lot, by taking the same proceedings as are required for the building of a sidewalk.

When contractor entitled to certificate.

SECTION 13. Whenever any work has been done under contract as provided in this chapter, and the work shall have been approved by the mayor, and street committee, such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor and the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by indorsement thereon; and, if the amount is not paid before the

time of making out the annual assessment roll, the same may be filed with the city clerk, and the common council shall order the same assessed upon the said lots of land respectively, as a special tax, and to be collected therefrom for the benefit of the holder of said certificate, as other taxes on real estate are collected by virtue of the laws of this state; and if the notice to do the work required shall have been given as herein prescribed, no informality or error in the proceedings shall invalidate or vitiate such assessment; provided, that in no event where work is ordered to be done, at the expense of any lot or parcel of land, shall the city be held responsible for, or on account thereof, or for any proceedings for the collection of the pay therefor.

Highway tax, when levied.

SECTION 14. The common council of the city of Columbus, shall, on or before the first Monday in May in each year, determine and levy the amount of highway tax in said city for the ensuing year, for the purpose of constructing and repairing streets, highways and bridges in said city, which amounts shall not be less than one (1) or more than five (5) mills, on the dollar upon all of the taxable property of said city, as the same shall appear by the last assessment roll of said property.

List of all persons liable to pay highway tax to be made.

SECTION 15. The city clerk shall, within fifteen days after said highway tax shall be so levied, make out and deliver to the city treasurer, a list of all persons liable to pay highway taxes in said city, which list shall also contain a statement of all the taxable personal property, and a description of all lots or parcels of land within said city, with the value of each lot or parcel set opposite to such description, as the same shall appear on the assessment roll of the previous year, and if such lot or tract was not separately described in such roll, then in such proportion to the valuation, which shall have been affixed to the whole tract of which such lot or parcel forms a part. and the amount of such tax shall be carried out in a separate column opposite the name of each person or persons, corporation or corporations to whom each item of taxable property upon said list is to be assessed. And the highway tax so levied, when collected, and the poll tax hereinafter provided for, shall constitute the road fund of the city of Columbus, which shall be disbursed and used

under and by direction of the street committee. The treasurer shall receive as his fee for collecting such road fund, two per centum of all moneys collected on said tax lists, on or before the first Monday in November in each year, and he shall retain his fees out of said fund.

Form of tax warrant.

SECTION 16. The city clerk shall make a duplicate of such highway tax list, and shall annex to each such tax list a warrant, signed by the mayor and clerk, under the corporate seal of the city, substantially in the following form:

COLUMBIA COUNTY, } ss.
City of Columbus. }

The state of Wisconsin to A. B., treasurer of the city of Columbus:

You are hereby required to collect from the several persons and corporations named in the annexed tax list, and from the owners of the real estate described therein, the taxes set opposite to such persons, corporations and property within the time limited by law, and to apply the taxes by you collected, and make due returns as the law requires.

Dated this ——— day of ———, 18—.

(Seal.) J. H.———, Mayor.
C. D.———, City Clerk.

One of said lists shall be filed in the office of the city clerk, and the other the city clerk shall deliver to the city treasurer.

Collection of taxes.

SECTION 17. The city treasurer shall have the same powers, and proceed to collect said taxes in the same manner as in the collection of general taxes, and in case the said treasurer shall be unable to collect any portion of said tax, he shall, on or before the first Monday in November in each year, make out and deliver to the city clerk of said city a list of all such unpaid taxes, which list shall contain the names of all persons, corporation or corporations, and the description of all real estate or personal property included in said tax roll, and the amount of such tax against each of such descriptions or items so uncollected, which said list shall be sworn to by said city treasurer before some officer authorized to administer oaths.

Delinquent tax roll.

SECTION 18. Upon the receipt of such list, the city clerk shall, at the time of making out the general annual tax roll of said city for that year, place in a separate column on said roll, the amount

of said delinquent tax against the proper description of real estate and personal property, which shall be collected or returned in the same manner as general taxes are collected or returned by law.

Who are liable to pay poll tax.

SECTION 19. Every male inhabitant of the city of Columbus, over twenty-one years of age, and under fifty, except active members of the fire department, and those otherwise exempt by the general laws of this state, shall pay into the city treasury annually the sum of one dollar each, as poll tax. It shall be the duty of the assessor of the city of Columbus, during the month of April, to make out duplicate lists of all persons liable to pay said tax in the city of Columbus, and said assessor shall, on or before the first day of May of each year, deliver said lists to the city clerk, who shall annex thereto a warrant, signed by the mayor and clerk, under the corporate seal of the city, substantially in the following form:

COLUMBIA COUNTY, } ss.
City of Columbus. }

Form of warrant.

The state of Wisconsin to A. B., treasurer of the city of Columbus, in said county:

You are hereby required to collect from each of the persons named in the annexed tax list, the sum of one dollar as poll tax, within the time limited by law, and to apply the taxes by you so collected and make due return thereof as the law requires.

Dated this —— day of ——, 18—.

(Seal.) J. H. ——, Mayor.

C. D. ——, City Clerk.

Duty of clerk in relation thereto.

The clerk shall file one of said writs in his office and deliver the other to the treasurer, who shall thereupon immediately proceed to collect the same, and all persons liable to pay such tax who shall not have paid the same after demand, either personally or by written notice left at their usual place of abode, on or before the first day of July of each year, shall be liable to and pay a penalty of two dollars ($2) in addition to said poll tax, together with the costs of prosecution, to be prosecuted for by said treasurer, in the name of the city of Columbus. The process in each case shall be by warrant, as provided for in chapter 9 of this act, entitled "actions to recover penalties," etc.; and in case judgment shall be rendered against the defendant in such action, and he shall refuse

or neglect to pay such judgment, he shall be imprisoned in the county jail ten days. The mayor, city clerk and treasurer shall constitute a board, to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board, within twenty days from the time when said list shall be delivered to the treasurer as aforesaid.

CHAPTER XII.

PUBLIC SCHOOLS.

Public schools.

SECTION 1. The common council shall annually at its regular meeting in May, or as soon thereafter as may be, by ballot, elect from the city at large, one school commissioner, whose term of office shall commence on the first Monday in July after his election, and who shall hold office for three years, and until his successor has been elected and qualified; provided, however, that the common council by a vote of two-thirds of its members may, for misconduct or other sufficient cause, remove any school commissioner elected.

Board of education.

SECTION 2. The school commissioner so elected shall form the board of education of the city of Columbus, and a majority of said board shall form a quorum for the transaction of business. It shall be the duty of the common council to fill by an election, as before provided, any vacancy, which may occur in the board of education by resignation or otherwise.

Duties of board.

SECTION 3. The board of education shall, at its first regular meeting, which shall be held on the first Monday of July in each year, or within fifteen days thereafter elect some suitable person as city superintendent of schools, whose term of office shall commence on the second Monday of July, and who shall hold his office for one year and until his successor shall be elected and qualified, unless sooner removed by a two-thirds vote of the council, or by a two-thirds vote of all the members elect of the board of education, for misconduct or other sufficient cause.

Further duties.

SECTION 4. The board of education shall, annually, at its first regular meeting, elect one of its members president, who shall preside at all meetings of the board, and preserve order and decorum thereat, and decide all questions of order, subject to appeal to the board. He shall sign all orders

drawn by the secretary for the payment of teachers' and janitors' wages, and all other incidental and necessary expenses of said board of education, (not including superintendent's and secretary's salaries). He shall declare all votes taken on questions coming before the board; provided, that on all questions requiring appropriations of money or the adoption of new text books, the votes shall be taken by ayes and noes, and on any other question the ayes and noes shall be called when any member shall request it; provided further, that in the absence of the president the board shall elect a president *pro tempore*.

Further duties.

SECTION 5. The board of education shall hold at least one regular meeting in each month, at such time and place as may be designated by it, and it may have special meetings at such other times as it may deem necessary, or when called together by the president; but no such special meeting shall be legal, unless each member of the board shall have first been served with notice in writing, of the time and place of such meeting.

Salary of city superintendent.

SECTION 6. The city superintendent of schools shall receive an annual salary, to be paid quarterly, the amount of which shall be fixed yearly by the common council.

Duties of board of education.

SECTION 7. The duties of the board of education shall be as follows:

1st. To decide upon the number of teachers to be employed, the grade of school to be kept by each, and the amount of salary to be paid each, and to hire and make contracts with teachers; and before any teacher shall enter upon his duties as such, he shall enter into a written contract, which contract shall be signed by such teacher, and in behalf of said board, by the president of the board and by the secretary of the board. Such contract shall be made in duplicate, and one copy thereof filed with the secretary, and the other copy delivered to the teacher.

2d. To arrange and determine terms and vacations in all public schools, to establish uniformity in the school system, and to require and secure uniformity in text books, and to adopt and reject text books at will.

3d. To establish rules and regulations for schools not in conflict with the constitution or laws of this state; but the common council may, in its discretion, do away with, annul or abrogate

any such rule or regulation by a two-thirds vote of the whole number of aldermen elected.

4th. To make contracts for fuel, stationery, and articles of furniture required for the use of the schools; to make contracts for all necessary repairs in school houses, lighting fires, sweeping school rooms, etc.

5th. The said board shall, annually, on or before the first day of October in each year, submit a statement to the common council, showing the amount of teachers' wages that have accrued and become due during the preceding year, and the amount of all other indebtedness accruing on contract or otherwise, that has been made by order of the board; and for that purpose it shall cause entries to be made in a book or books to be provided by the city, of all contracts made with the teachers and the amount of salary to be paid, and of all other expenditures made or authorized by said board, at the time the same shall be made or authorized, which book or books shall be subject to inspection, in the same manner as the records of the proceedings of said board, and it shall at the same time submit for the consideration of the common council, a statement of the estimates required for carrying on the schools for the ensuing year, specifying the amount required for teachers' wages and other items separately and specifically. Nothing in this section contained shall prevent the common council from taking into consideration, the amount to be received from the state from the income of the school fund, and the amount to be received from the county school tax during the ensuing year.

Respecting repairs on school buildings.

SECTION 8. Whenever repairs to a larger amount than one hundred dollars ($100), shall, in the opinion of the board, be required for any one school house, it shall cause a statement to be made showing the repairs required, and an estimate of the costs thereof, to be laid before the common council; and whenever in its opinion another school house shall be required, it shall cause estimates of the cost of a site for such house or houses, and a plan of the proposed building or buildings, together with the estimates of the cost of the same to be made, and shall submit the same for the consideration of the common council, who shall forthwith take measures to raise a tax to defray the costs of such repairs, or the erection of

such building or buildings, and the purchase of a site or sites; provided there shall be a majority vote of the whole number of aldermen in favor of the same; and it shall be the duty of said board to enter into contracts for making such repairs, or for the erection of such buildings or for the purchase of such sites; whenever it shall be made to appear that the necessary tax for the same has been levied or authorized by the common council.

Duties of board of education.

SECTION 9. It shall be the duty of the board of education to audit each and every indebtedness of said city for school purposes, and to issue orders therefor on the city treasurer, payable out of the school fund, signed by the president and secretary of the board, and all accounts to be audited except for teachers' and janitors' wages, must be verified by the claimant or some person in his behalf. All moneys received by, or raised in the city of Columbus for school purposes, shall be distributed only on such orders of the board of education, and in no other manner. All such orders shall specify the purpose for which they were drawn, and shall be payable to the order of the person in whose favor they may be drawn, or to bearer.

Board shall have no interest in any contract.

SECTION 10. No member of the board of education shall have any interest, direct or indirect, in any contract made by said board, and every contract so made in which any member of said board shall have such interest, shall be absolutely void.

Duties of city superintendent defined.

SECTION 11. The duties of the city superintendent shall be as follows:

1st. To examine all applicants for teachers' licenses in the branches taught in the public schools of said city, and, if approved, give them certificates authorizing them to teach in the city, and to report the names of all persons to whom certificates have been granted, and the grade of certificate granted to each, immediately after each examination.

2d. To annul a teacher's certificate whenever he may think proper; provided, that such teacher shall have the right to appeal to the board of education.

3d. To visit each school department in said city at least once during each month.

4th. To report for the consideration of the board of education, such text books as he may think advisable and proper, for the use of the schools, and to report such alterations therein from time to

time, as he may think most beneficial for the schools in said city.

5th. To report in writing to the board of education at each regular meeting, relative to the condition of the schools under his supervision, and particularly as to the average attendance at each school since the previous report, to make such recommendations as shall, in his judgment conduce to their welfare, and perform such other duties and make such other reports as may be required of him by the board.

6th. He shall attend all the meetings of the board, and there make any suggestion he may think advisable relative to the government of the schools in said city; and shall be the secretary of the board of education.

SECTION 12. The duties of the secretary of the board of education shall be as follows:

1. He shall attend all meetings of the board, and, when absent from the city, or otherwise prevented from attending, one of the board of education may act as secretary *pro tem.*

2. He shall keep a record of the proceedings of the board, and shall preserve all papers and records of said board, and shall draw and countersign all orders payable out of the school fund when authorized by a vote of the board.

3. He shall keep such books as may be necessary for the business of the board of education.

4. He shall, annually, at the time fixed by law, take the census of all children, male and female designated separately, over the age of four and under twenty years, residing in the city, and the names of the parents or other persons with whom such children reside, respectively.

5. He shall make the annual report of the schools of the city to the superintendent of public instruction as provided by law.

Title of school property shall be vested in city.

SECTION 13. The title of the school houses, sites, furniture, apparatus and appurtenances, and all other property herein mentioned, shall be vested in the city of Columbus; and the same, while used or appropriated for school purposes shall not be levied upon or sold, by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever, and the said city shall be able to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest, or devise, for the use of the schools of said

city, whether the same shall be transferred in terms to said city by its proper style, or by any other designation, or to any person or persons or body, for the use of said schools.

Outside children may attend city school by payment of tuition.

SECTION 14. The state board of education shall have power to permit the children of persons not residents of said city, to attend in either of the schools therein under the care and control of said board, upon such terms as said board shall by resolution prescribe, fixing the tuition which shall be paid therefor. Permits to so enter the schools shall be issued by the city superintendent, but no such permit shall be issued which will interfere with the proper instruction of resident pupils. He shall report his actions under this section to the board of education as often as may be required, and he shall not issue any greater number of permits than may be authorized or sanctioned by the board of education. All permits shall specify the amount to be paid of [by] such non-resident pupil, and no such pupil shall be admitted to any school of the city until he has exhibited the receipt of the city treasurer, that the amount specified in such permit has been paid to him. At the end of each term and at such other times as may be required by the board, every teacher who has admitted to the school under his charge any non-resident pupil, under the superintendent's permit, shall return to the board of education the permit under which the pupil was admitted. All moneys so received for tuition shall become a part of the school fund of said city. But in case of sickness of a non-resident pupil, or in case of other unavoidable circumstances, which would hinder such pupil to attend for the term paid for, the board of education may refund the tuition fee for the time such pupil did not attend; but this provision shall not apply to cases where pupils are dismissed or expelled from the schools.

CHAPTER XIII.

MISCELLANEOUS PROVISIONS.

All city work may be let by contract to lowest bidder, including printing, etc.

SECTION 1. All work for the city or either ward may, in the discretion of the council, unless otherwise provided in this act, be let by contract to the lowest responsible bidder, and then at least one week's notice shall be given of the time and place of letting such contract. All printing for the use

of the city of Columbus, or any of its departments, except such as is provided in section nine of chapter four of the amended charter, shall be let to the lowest responsible bidder, and the city clerk shall give due notice, in writing, to all printers in said city, previous to a regular meeting of the common council, for sealed bids or proposals for certain job or jobs, which the city or any of its departments may need, and the city clerk shall open all bids for such printing, in presence of the common council, and the common council shall then award the contract to the lowest responsible bidder; provided, however, such bid is a reasonable one; and provided further, that the common council shall have the right to reject all bids deemed exorbitant; and the common council shall, if deemed necessary, order the clerk to send for bids from printers outside of the city, and award to them the contract or contracts, if their rates are more acceptable to the common council. The provisions of this section shall not apply to the printing necessary for the use of the board of education, but such printing for the use of such board shall be let to the lowest responsible bidder by the board of education, in the same manner as herein provided for letting the printing for the use of the city.

Credit of city shall never be loaned.

SECTION 2. The credit of the city shall never be given or loaned in aid of any individual, association or corporation. No appropriation shall be made, except by a majority vote of all the aldermen-elect, unless otherwise herein provided; and no money shall be appropriated for any purposes whatever, except such as are expressly authorized by this act.

Annual account to be published.

SECTION 3. The common council shall annually, in the month of March of each year, publish an account of the receipts and expenditures of the city for the information of the citizens.

New and accurate surveys may be ordered.

SECTION 4. The common council may at any time cause a new and accurate survey to be made, of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent land marks as it may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk, and re-

corded in the office of the register of deeds of the county of Columbia.

New surveys to be prima facie evidence.

SECTION 5. The surveys and land marks so made and established, shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Establishing grades.

SECTION 6. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys, and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Columbia county; and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor shall be paid by the city, to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained shall be so construed, as to prevent the street committees of the several wards of the said city, from ordering or causing to be done the grading of any street within their ward to a temporary grade, to be established by such committee.

City may hold and purchase real estate.

SECTION 7. The city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same while owned, occupied or held by said city, shall be exempt from taxation.

Special taxation.

SECTION 8. Real estate exempt from taxation by the laws of this state, shall be subject to special taxation for building sidewalks, sewers or gutters and other improvements of the streets in front of the same, or other real estate under this act.

Title of deeds.

SECTION 9. When the city of Columbus deeds or leases any real estate, or any interest therein owned by said city, the party of the first part shall be the city of Columbus, and the person or persons authorized to execute such deed, or lease, need not be named in the body thereof.

Deeds shall be signed by the mayor.

SECTION 10. The mayor of said city is hereby authorized, when the common council shall, by ordinance or resolution for that purpose, describe the real estate and interest to be conveyed under and direct him so to do, to execute a deed or lease of such real estate, or interest therein belonging

to the said city. The said deed or lease shall be signed by the mayor of the city, and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided for the execution of deeds and conveyances.

Clerk shall attach copy of ordinance to lease.

SECTION 11. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds with said deed or lease; and such copy so attached and record thereof, shall be in all courts of this state *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

Organization shall not be absolved for failure to hold election.

SECTION 12. If any election by the people or the common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be held at any subsequent day by order of the common council; and if any of the duties enjoined by this act, or the ordinances or by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which said act may be done and performed.

Not repealing.

SECTION 13. No general law of this state contravening the provisions of this act shall be considered as repealing, annulling or modifying the same, unless such purposes be expressly set forth in such law.

Appropriation.

SECTION 14. The common council shall have power to appropriate annually, a sum not exceeding five hundred dollars ($500) to any public purpose it may deem proper, but no such appropriation shall be made unless ordered by a two-thirds vote of all the aldermen elect.

Respecting moneys received from licenses.

SECTION 15. All moneys derived from licenses for the sale of intoxicating, spirituous, vinous, malt or fermented liquors within the city, shall constitute the license fund of the city of Columbus, and shall be expended and disbursed as the common council may direct. All disbursements and expenses heretofore paid out of such license fund,

and all appropriations heretofore made for the use of the city from such fund, are hereby legalized.

Actions against city, how commenced.

SECTION 16. In all cases where an action might be brought by the city of Columbus against any person, company or corporation, such action may be commenced and prosecuted in the name of the city, by any elector of said city; provided, that if the complaint is made by any person other than a peace officer, or other officer of said city, the justice shall require security for costs as in civil cases before justices of the peace.

Use of jail.

SECTION 17. The use of the jail of Columbia county, until otherwise provided, shall be granted to said city for the confinement of offenders, and every such offender shall be delivered to the sheriff of such county, for whose custody, safe keeping and delivery the said sheriff shall be responsible as in other cases.

Ornamental trees.

SECTION 18. The common council shall have power, to require the owner of any lot or grounds in the city, to set out ornamental trees in the street or streets fronting on the same, and in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expenses of the same.

Use of town cemeteries.

SECTION 19. The right of the citizens of the town of Columbus, and the right of the citizens of the city of Columbus, to the use of the town cemetery for burial purposes, shall not be impaired, anything in this act to the contrary notwithstanding, and the citizens residing within said city shall always have and enjoy the same rights and privileges in said cemetery, as the citizens of the town of Columbus, and the said city shall contribute its just share of the expenses of maintaining said cemetery.

Public act.

SECTION 20. This act is hereby declared a public act, and shall be liberally construed in all courts of this state.

Repealing clause.

SECTION 21. All acts or parts of acts inconsistent and conflicting with the provisions of this act, are hereby repealed; but the repeal of said acts or parts of acts shall not in any manner affect, injure or invalidate any contract, claims, suits, penalties or demands that may have been entered into, performed, commenced, or that may exist under or by virtue or in pursuance of the said acts, or any former act incorporating the city of Columbus or any of them, but the same shall

exist and be enforced and carried out and completed, as fully and effectually, to all intents and purposes, as if this act had not been passed.

SECTION 22. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1883.

[No. 140, S.] [Published April 18, 1883.]

CHAPTER 182.

AN ACT to incorporate the city of Lake Geneva.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER 1.

Corporate name.

SECTION 1. All the territory hereinafter described, situated in the county of Walworth, shall, from and after the adoption of this charter as hereinafter provided, be a city by the name of Lake Geneva, and the people now inhabiting, and those that shall hereafter inhabit said territory, shall be a municipal corporation by the name of the city of Lake Geneva, and shall have all the general powers, rights and immunities possessed by municipal corporations at common law, and in addition thereto, shall possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession and shall be capable of contracting and being contracted with, suing and being sued, of pleading and being impleaded in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

Boundaries.

SECTION 2. All the territory in the county of Walworth and state of Wisconsin, included within the following described boundaries, shall constitute the city of Lake Geneva, to-wit: Commencing at the southeast corner of town two (2) north of range seventeen (17) east, in said county; thence north forty (40) chains in the east line of said town to the quarter section post therein; thence east four hundred sixty-six and sixty-nine hundredths (466 69-100) feet in the east and west quarter line of section thirty-one (31) in town two (2) north, of range eighteen (18) east in said county; thence north four hundred

sixty-six and sixty-nine hundredths (466 69–100) feet; thence west four hundred sixty-six and sixty-nine hundredths (466 69–100) feet to the aforesaid east line of said town two (2) north, of range seventeen (17) east; thence north in said town line to the northeast corner of the southeast quarter of section twenty-five (25) in said town; thence west in the east and west quarter lines of sections twenty-five (25) and twenty-six (26) to the north and south quarter line in said section twenty-six (26); thence south in said quarter line and the north and south quarter line of section thirty-five (35), to the south line of said town two (2); thence south in the north and south quarter line of section two (2) in town one (1), of range seventeen (17) east, to the east and west quarter section line in said section; thence east in said east and west quarter line and the east and west quarter line of section one (1), in said town to the east line of said town one (1); thence north in said east line to the northeast corner of town one (1) aforesaid, constituting all the territory comprised in the village of Geneva and other territory.

Charter to be submitted to electors before adoption.

SECTION 3. This charter shall be submitted to the electors residing within the limits of the territory heretofore described, and voting at a special meeting, to be called for that purpose by the trustees of the village of Geneva, in the manner provided by chapter 40, revised statutes 1878, and held in said village, and conducted in the same manner as special meetings are held and conducted in said village. The polls of such meeting shall be open from ten o'clock A. M. until four o'clock P. M. Every qualified elector of this state, residing within said territory, shall be entitled to vote at said meeting. The vote upon that question shall be by ballots, upon which shall be written or printed the words, "For the charter," or "Against the charter." If a majority of the ballots cast at such meeting have thereon the words, "Against the charter," this act shall not take effect. If a majority of such ballots have thereon the words, "For the charter," this act shall be of full force and effect. The inspectors of said election shall make and certify returns of the result thereof, and file duplicates of the same in the offices of the county clerk of Walworth county, of the town clerks of the towns of Geneva and Linn, and of

Opening of polls.

Inspectors.

the village clerk of the village of Geneva, and such returns shall be evidence of the facts therein stated, and the regularity of all the proceedings in relation to such meeting. In case this charter shall not be adopted at the first election held for that purpose, the same may again be submitted to the electors of the said territory, at a meeting to be called, held, conducted and certified in the same manner as above provided, at any time within two years from and after the passage of this act, and if adopted at such meeting by a majority of the ballots cast thereat, shall take effect and be of full force from and after that day.

In case charter should not be adopted.

First election.

SECTION 4. In case this act is adopted as the charter of said city, it shall be the duty of the village board of the village of Geneva, to designate the time and place for holding the first election in each ward, appoint the inspectors of election, and perform such other acts as may be required in holding the first municipal election in said city. The village board shall also act as a canvassing board for said city, at the first election, and perform such duties as may be required of the board of canvassers under this act, and all officers chosen thereat shall hold their offices until the first annual election thereafter.

Ward limits.

SECTION 5. That part of the corporate territory lying west of a line drawn from the south end of Broad street, where it abuts upon the lake, northerly along the center of said street to the north line of section thirty-six (36), thence west to the center of Williams street, thence north along the center of Williams street and beyond the terminus of Williams street, upon the same course north to the north line of the city, shall constitute the first ward. And that part of the corporate territory lying east of said line and east of the lake shall constitute the second ward.

Corporate authority, in whom vested.

SECTION 6. The corporate authority of said city shall be vested in one principal officer styled the mayor, and a board of aldermen consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as are hereinafter provided for, or may be created under this act.

CHAPTER 2.

ELECTIVE OFFICERS, ETC.

Elective and appointive officers.

SECTION 1. The elective officers of said city shall be a mayor, treasurer, assessor, city clerk, two justices of the peace, and two constables for the city at large, and three aldermen and one supervisor for each ward. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council.

Terms of justice of the peace.

SECTION 2. Justices of the peace shall hold their office for two years. All other elective officers for one year, or until their successors are elected and qualified.

Officers shall be residents and electors.

SECTION 3. All officers of said city shall be residents and electors thereof, and all ward officers shall be residents and electors of the ward wherein they are elected or appointed. No person having been city treasurer for two years in succession shall be eligible to re-election, until one year shall have elapsed.

Annual election.

SECTION 4. The annual election for ward and city officers shall be held on the first Tuesday of April of each year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon, until sundown; and ten days' previous notice shall be given by the common council in a paper published in said city, of the time and place of holding such elections, and of the city and ward officers to be elected.

Electors.

SECTION 5. All persons who are qualified electors of the state of Wisconsin, and shall have resided ten days next prior to any election in the ward where they shall offer to vote, shall be deemed qualified electors of said city, and may vote in the ward in which they reside.

Legal ballots.

SECTION 6. All elections shall be by ballot, and a plurality of votes shall constitute an election. The votes for all elective officers shall be on one ballot and shall be deposited in one ballot box. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council, at such time and in such manner as they shall direct.

Tie vote.

Inspectors.

SECTION 7. The aldermen in each ward shall constitute the board of inspectors of elections, and they shall take the usual oaths or affirmations, as prescribed by the general election laws of this state to be taken by the judges and inspectors of elections, and shall have power to appoint clerks of such elections, and to administer the necessary oaths; said elections shall be held and conducted in the same manner and under the same laws and penalties and vacancies in the board of inspectors thereof be filled, as required by the laws of this state regulating general elections.

Vote to be declared.

SECTION 8. When an election shall be closed, and the number of votes for candidates, or persons voted for shall be counted and ascertained, the said inspectors shall make a return thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered such return to the city clerk within three days after any election. The common council shall, on the fourth day after such election, meet and canvass said returns and declare the result as it appears from the same, and the city clerk shall forthwith give notice of his election to each person so elected.

Common council may expel any of their number.

SECTION 9. The common council shall have power for due cause to expel any of their number. The mayor shall have power to suspend the marshal or any other police officer or watchman appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being. All officers appointed by the mayor or common council may be removed at the pleasure of the council by a two-thirds vote.

When office shall be deemed vacated.

SECTION 10. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to qualify and enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

Vacancies how filled.

SECTION 11. Whenever a vacancy shall occur in the office of mayor, alderman or justice of the peace, such vacancy shall be filled by a new elec-

tion, which shall be ordered by the common council within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy shall hold his office and discharge the duties thereof, for the unexpired term and with the same right and subject to the same liabilities, as the person whose office he may be elected or appointed to fill.

Special elections.

SECTION 12. Special elections to fill vacancies or for any other purpose, shall be held and conducted in the same manner, and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance.

CHAPTER 3.

OFFICERS AND THEIR POWERS.

Officers and their powers.

SECTION 1. Every person elected or appointed to any office under this act, except justice of the peace, shall, before he enters upon the duties of his office, take and subscribe the oath of office, prescribed by the constitution, and file the same, duly certified by the officer taking the same, with the city clerk, and the clerk, marshal, constables, and such other officers as the common council may direct, shall severally before they enter upon the duties of their respective offices, execute to the city of Lake Geneva a bond with at least two sureties, who shall swear that they are each worth the penalty specified in said bond, over and above all debts, liabilities or exemptions, and said bond shall contain such penal sum and such conditions as the council may deem proper. The treasurer, before entering upon his duties, shall also execute a bond, with not less than two nor more than ten sureties. The penal sum expressed in such bond shall exceed the amount of the last annual tax roll, and each surety shall swear that he is worth a certain amount over and above all debts, liabilities or exemptions, and the aggregate of such amounts shall at least exceed the penal sum specified in such bond. The council may, from time to time, require new or additional bonds from the treasurer or other officer of the city, and the council may remove from office any officer refusing or neglecting to give the same. Justices of the peace shall qualify in the same manner as in towns, ex-

cept that their bonds shall be approved by the common council.

Duties of mayor.

SECTION 2. The mayor shall, when present, preside over the meetings of the common council, and except in the election of officers, shall have a vote only in case of a tie. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all officers of the city discharge their respective duties: he shall, at the first regular meeting of the common council in each year, make out and announce such standing committees for the year, and on such subjects as may be required by ordinance or resolution of the common council; and shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. He may appoint special policemen, when in his judgment the safety and good order of the city require it, but their appointment shall not continue beyond the next meeting of the common council thereafter, unless approved by said council; the compensation of such special policemen shall be fixed by the common council.

President.

SECTION 3. At the first meeting of the council after its election in each year, it shall proceed to elect, by ballot, one of its members president, and in the absence of the mayor, the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability, for any reason, to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor, except the signing of city bonds. In case both the mayor and president shall be absent from any meeting of the common council, it shall proceed to elect one of its number a temporary presiding officer, who, for the time being, shall have the same authority and power as the president. The president or temporary presiding officer while presiding over the council, or performing the duties of mayor, shall be styled acting mayor, and any acts performed by either of them shall have the same force and validity as if performed by the mayor; but the president of the council, or temporary presiding officer, as acting mayor, shall sign no warrant or other proceeding whatever, which the mayor theretofore has refused to sign.

SECTION 4. The city clerk shall perform all the duties required by law to be performed by him; he shall be keeper of the books, records and papers and the corporate seal of the city, and the records of the proceedings of the council, and shall possess the same powers that town clerks possess by law to issue transcripts from the records of his office, and they shall, when certified by him, be received in all courts in like manner and effect; he shall draw and countersign all orders on the city treasurer and keep a record of the same; he shall also keep in such manner as the council may direct, an accurate account with the treasurer, and charge him with all tax rolls delivered to him for collection, and all sums of money paid into the treasury; he shall file in his office all the chattel mortgages left with him to be filed, and the renewals thereof, and keep the same, receiving the same fees allowed by law to town clerks therefor, and the said mortgages and renewals shall be as valid and lawful as when filed in the office of town clerks; he shall act as clerk of the board of equalization, and shall perform such other duties not here enumerated as may be required of him in his said capacity by the common council, or by the general laws of the state of Wisconsin in relation to the assessment and collection of taxes in said city; he shall also have power and authority to administer oaths and affirmations, and may appoint a deputy in writing under his hand, and file such appointment in his office, and such deputy, in case of absence or disability of the clerk, shall act in his place, and he shall receive such compensation as the common council shall provide or allow. City clerk, his duties.

SECTION 5. The treasurer shall perform such duties, and exercise such powers as may be lawfully required of, or conferred upon him by the ordinances of said city, or the laws of this state. He shall receive all moneys belonging to the city, shall pay out the same only upon written orders, signed by the mayor and countersigned by the clerk, and shall keep an accurate and detailed account of all receipts and disbursements, in suitable books to be provided for that purpose, and in such manner as the common council shall direct; he shall report to the common council as often as required, and annually, at least ten days before the annual election, a full and detailed statement City treasurer his duties.

of all receipts and expenditures since the date of the last annual report, and of the state of the treasury, which statement shall be filed with the clerk. He shall be collector of taxes in said city, and in addition to the powers and duties herein specified, shall have the same powers and duties, and be subject to the same liabilities as treasurers of towns.

Marshal.

SECTION 6. The city marshal shall possess all the powers and authority of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary in criminal cases or for the violation of any ordinance of said city, or laws of this state, may pursue and serve the same in any part of the state of Wisconsin. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and abate all nuisances, to apprehend, with or without warrant, any person in the act of committing any offense against any ordinance of said city, or law of this state, and forthwith bring such person before competent authority for examination, and for such service he shall receive such fees as are allowed by law to constables for like service. He shall do and perform all such duties, as may lawfully be enjoined on him by the mayor or common council, or by the ordinances of said city. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require a bond for the faithful discharge of their duties. The marshal shall be appointed by the common council as soon as it shall organize, and it may at the time of his appointment or afterwards, allow him such further compensation as it may deem prudent.

City attorney.

SECTION 7. The common council may, at its first meeting, elect a city attorney to conduct the law business of the corporation, but the council may omit such election, and when necessary provide or employ such an attorney or counsel as it may desire. The city attorney, if there be one, shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the common council or any of its committees, and advise and instruct all other officers in their duties when directed by the common council. He shall keep a docket of all cases

to which the city may be a party in any court, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city, and shall at all times be open to inspection of the mayor or any member or committee of the common council. It shall also be the duty of the city attorney, when required by the common council, to draft all ordinances, bonds, contracts, leases, conveyances and other instruments in writing necessary to the business of the city government, and to perform such other duties as may be prescribed by the charter and ordinances of said city. He shall receive such reasonable compensation as may be agreed upon for services rendered.

Further duties.

SECTION 8. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by them, where the compensation is not fixed by the statute or this charter. The council shall, at least ten days before the annual charter election in each year, fix by resolution the salary which shall be paid to the clerk and assessor for the ensuing year, and such salary shall not be increased or diminished during the term of the officer elected; neither shall extra compensation be granted except by unanimous vote of the council, approved by the mayor. For the year 1883 such compensation shall be fixed by the common council, within ten days after it shall organize, and the notice of the first election held under this charter may be given by the acting village clerk, and the inspectors thereof may be appointed by the persons acting as the board of trustees of the present village of Geneva.

Penalty for failure to deliver to successor.

SECTION 9. If any person having been an officer in said city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects of every description in his possession belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars ($100) besides all damages caused by his neglect or refusal so to deliver; and such successor may recover possession of such

books, papers and effects in the manner prescribed by the laws of this state therefor.

Mayor or aldermen not to be interested in any job.

SECTION 10. No mayor or alderman shall be a party to, or interested in any job or contract with the city, and any contract in which they, or either of them may be so interested, shall be null and void, and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract, and the mayor or alderman interested in the same, or either or any one of them.

Officers of the peace.

SECTION 11. The mayor or acting mayor, and each and every alderman, justice of the peace, marshal, constable and watchman, shall be an officer of the peace, and may command the peace and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purpose may command the assistance of all by-standers and other citizens; and if any person, bystander or citizen shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of five dollars ($5); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present, in the order above mentioned in this section, shall direct the proceedings.

Actions to be brought in corporate name of city.

SECTION 12. All actions brought to recover any penalty or forfeiture under this chapter, or the ordinances, by-laws, police and health regulations made in pursuance thereof, shall be brought in the corporate name of the city, and may be heard and determined by or before any justice of the peace in the city. All fines and penalties collected by any justice in such cases shall be paid over to the city treasurer, except those for refusing to pay poll tax, which shall be paid over on demand to the street commissioner. Each justice shall report to the common council on the first Monday in January, April, July and October, in each year, a statement of all such fines and penalties collected by him, and at the same time pay over the amount thereof to the city treasurer, except as above mentioned.

Resignations.

SECTION 13. Any officer may resign his office by filing his written resignation with the clerk, and such resignation shall take effect, and his office shall be deemed vacant, from the time such

resignation shall be accepted by the common council.

No city officer to be surety on bond.

SECTION 14. No alderman or other city officer shall be accepted as surety upon any bond, note or obligation made to the city, nor shall any officer required to give a bond as aforesaid, enter upon the discharge of the duties of his office until his bond shall have been filed and approved as by this act required.

Official newspaper.

SECTION 15. The council at the first meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers, printed in said city, in which shall be published all ordinances, notices and other proceedings and matters required by this act, or the by-laws or ordinances of the common council, to be published in a public newspaper, which printing or publishing shall be let by contract to the lowest bidder or bidders.

Affidavit of publication to be filed.

SECTION 16. The city printer or printers immediately after the publication of any notice, ordinance or resolution, or by-law, which, by this act is required to be published, shall file with the clerk of the city a copy of such publication with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, by-law or resolution, and the clerk shall file and keep the same in his office.

City surveyor.

SECTION 17. The common council may also at its first meeting for organization after the annual election, or as soon thereafter as convenient, elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation, for any service performed by him. All surveys, profiles, plans or estimates made by him for the city, or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested.

Regarding constables.

SECTION 18. All constables elected by virtue of this act shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Assessors.

SECTION 19. The assessor shall assess all the property subject to taxation within the city, and

in the performance of his duties, shall possess the same powers and be governed by the same laws and regulations as town assessors, and shall complete and return his assessment roll to the city clerk, at the same time and in the same manner as town assessors are required to make returns to town clerks.

Justices of the peace, their duties.

SECTION 20. The justices of the peace elected under this act shall have the same jurisdiction, and perform all the duties of justices of the peace in towns; and in addition thereto shall have jurisdiction of all cases arising under the provisions of this act, and the ordinances, resolutions and by-laws enacted by the common council, and shall qualify in the same manner as provided by the general laws of this state, except that the official bonds shall be approved by a majority of the common council. Their fees shall be governed by the general laws concerning fees of justices of the peace, but they shall not receive any perquisites or compensation from said city, except so far as the city may become liable to them for fees as a party to a suit before them.

CHAPTER 4.

THE COMMON COUNCIL — ITS POWERS AND DUTIES.

Style of ordinances.

SECTION 1. The mayor and the aldermen shall constitute the common council, and the style of all ordinances shall be: "The common council of the city of Lake Geneva do ordain." The common council shall hold its first annual meeting in each year on the second Tuesday in April, and thereafter stated meetings at such times as it may determine. A majority of the aldermen shall constitute a quorum.

Special meetings, how held.

SECTION 2. The common council shall hold special meetings by order of the mayor, or on written request of two aldermen filed with the clerk, and notice to each of the members served personally or left at his usual place of business or abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have power to compel the attendance of absent members and to enforce its rules, and by a vote of two-thirds of its members to impose a fine upon any member for disorderly or contemptuous conduct, or to expel any member for

cause. Their sessions shall be open and public; their proceedings shall be recorded in full, and all their papers and records and all election returns shall be deposited with the city clerk, and the same may be examined at any time in the presence of the clerk.

Council shall have jurisdiction over Lake Geneva.

SECTION 3. The common council shall have jurisdiction over so much of Geneva Lake as lies within the corporate limits of the city, and may enact and enforce ordinances or by-laws for the preservation of the fish in the waters thereof, or in the mill race and outlet of the same, and may also, by ordinance or resolution, prohibit and prevent any deterioration of the said water, or any nuisance being cast therein, by which the health of the inhabitants of the city, or the purity of the water shall be impaired.

Also lake shore.

SECTION 4. The common council shall have exclusive control of the lake shore below high water mark within the city limits, and may regulate the use thereof, and prescribe rules and regulations for the protection of the same. And it may for the preservation and protection of the shore of said lake adjoining any public grounds, streets or alleys, construct and maintain breakwaters, wash-overs, piers, or any other structure or device, which in the judgment of the common council and the city surveyor will protect and preserve such shore.

Control and management of finances.

SECTION 5. The common council shall have the management and control of the finances and of all the property of the city; and shall likewise, in addition to the powers herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade, commerce, and health, as it shall deem expedient, and to prescribe penalties for the violation thereof, and sue for and collect the same with costs of suit; and in case of default of payment to provide for committing the person convicted to the city watch-house, or the county jail of Walworth county for a term not exceeding ninety days; or by other lawful means to enforce such ordinances, rules or by-laws, against all persons violating any of the provisions thereof; and such ordinances, rules, and by-laws are hereby declared to be and have the force

of laws; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority, by ordinance, resolution or by-law:

Grant licenses.

1. To license, regulate, suppress and prohibit the exhibitions of common showmen or shows of any kind, or of caravans, circuses or theatrical performances; to prevent or license and regulate the keeping of billiard tables, pigeon-hole tables and bowling saloons, and to provide for the abatement and removal of all nuisances, under the ordinances or at common law; and to grant licenses for and regulate groceries, taverns, victualing houses, and all places for vending or dealing in spirituous, vinous or fermented liquors, and may prohibit and suppress the same; provided, that the license for so dealing in or vending spirituous, vinous or fermented liquors shall not be less than one hundred dollars ($100) nor more than five hundred dollars ($500) per annum; and provided further, that druggists or other persons whose chief business is to sell drugs and medicines, shall not be deemed within the provisions hereof, when the same are sold for medical, mechanical or sacramental purposes. Such licenses shall not be granted for a longer term than one year, and shall run from the first day of May, and shall be liable to be revoked for a violation of the provisions thereof or of the statutes of this state.

Gambling.

2. To prohibit all descriptions of gaming, gambling and fraudulent devices and practices, and playing of cards, dice or other games of chance for the purpose of gaming in said city, and to authorize the confiscation and destruction of all instruments and devices used for the purpose of gambling.

Suppress riots.

3. To prevent and suppress all fights, riots, noise, disturbances, disorderly assemblages, disorderly conduct, disorderly houses, and houses of ill-fame.

Nuisances.

4. To declare what are nuisances, and to prevent or abate the same.

Nauseous places.

5. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, or any unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be deemed necessary for the health,

comfort and convenience of the inhabitants of said city.

6. To direct the location and management of slaughter houses and markets, or to prevent the unauthorized erection or use thereof within the city, and to regulate the storage, safe keeping and conveying of gunpowder or other combustible materials. Slaughter houses.

7. To prevent the encumbering of streets, sidewalks, crosswalks, public grounds, lanes, alleys, or bridges, with carriages, carts, wagons, sleighs, boxes, lumber, firewood, logs or any other material or subtance whatever, and to prevent the loading and unloading of lumber, logs, or other materials or substances of whatever name or kind upon the bridges in said city. Encumbering streets.

8. To renumber the lots and blocks of the city, or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds. Renumber lots and blocks.

9. To prevent horse racing, and immoderate riding or driving in the streets and upon any and all bridges, and to regulate bathing and swimming in the waters within the limits of said city. Horse racing.

10. To restrain, regulate or prohibit the running at large of neat cattle, horses, mules, swine, sheep, goats, poultry or geese, and to authorize the distraining, impounding and sale of the same, for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto; to establish pounds and regulate and protect the same. Restrain cattle.

11. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances. Dogs.

12. To prevent any person from bringing, depositing, or having within the limits of said city, any putrid carcass, meat, fish, or other unwholesome substance, and to require the removal of the same by the owner thereof, or by the person bringing, depositing, or having the same upon his premises, and on default, to authorize the removal thereof, by some competent officer, at the expense of such person or persons. Carcasses.

13. To regulate, license or suppress omnibuses, hacks, cabs, drays, carts, and to regulate the License hacks, etc.

charges of omnibus drivers, hackmen, cabmen, draymen and cartmen in the city.

Boards of health.

14. To establish and regulate boards of health, provide hospitals, dispensaries, pest houses and cemetery grounds; to enclose, lay out and ornament such grounds, and sell and convey lots therein; to regulate the burial of the dead, and return the bills of mortality, and to exempt burial grounds, set apart for public use, from taxation.

Riding or driving on sidewalks.

15. To prevent all persons from riding or driving any horse, ox, mule, cattle, or other animal, on the sidewalks in said city, or in any way doing any unnecessary damage to such sidewalks.

Firearms and fireworks.

16. To prevent bonfires and the shooting of firearms, or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the common council, dangerous to the city, or any property therein, or annoying to the citizens thereof.

Drunkenness.

17. To restrain and punish drunkenness, immoderate drinking, or any obscene or indecent exhibition or conduct in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same; and to restrain and punish vagrancy, mendicancy and prostitution.

Runners and solicitors.

18. To restrain and regulate runners and solicitors for stages, steamboats, public houses or other establishments, and to make rules and ordinances for the government and regulation of the police of said city.

Public parks.

19. To establish public parks and walks, inclose, improve and ornament the same, and prevent the incumbering or obstruction thereof.

Public buildings.

20. To control and protect the public buildings, property and records and insure the same.

Shade trees.

21. To provide for and regulate the planting and trimming of trees within the streets and public grounds of the city, and prohibit the planting of such trees as are or may become nuisances, and provide for the removal of such as are already planted.

Markets for provisions.

22. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butcher's meat, butter, fish and other provisions; establish and regulate markets and restrain sales in the streets.

Hay and fuel.

23. To regulate the place and manner of the weighing, measuring and selling of fuel, hay and

lime, and to appoint suitable persons to superintend and conduct the same.

Remove snow, dirt, etc.

24. To compel the owners or occupants of buildings or grounds to remove snow, dirt, or rubbish from the sidewalks adjacent thereto, and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health may direct; and on their default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owners or occupants.

Contagious and infectious diseases.

25. To regulate, control and prevent the landing or passing through said city of persons from boats, vessels, cars, stages or other conveyance, who are infected with contagious or infectious diseases, and to make such disposition of such persons and their property as will preserve the health of said city.

Auctioneers or peddlers.

26. To license auctioneers, peddlers and transient dealers, and to regulate the time, place and manner of holding public auctions or vendues, and to require the payment into the city treasury of a certain percentage of amounts, received from sales by auctioneers or transient dealers, or the payment of a license, or both, as the common council shall determine.

Watchmen and policemen.

27. To appoint watchmen and policemen, and prescribe their duties.

Watch-house.

28. To purchase, build or lease, maintain and regulate a watch house, or a place for the temporary confinement of suspected persons, and offenders against the statute or city ordinances.

Pounds.

29. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the supply of water to the inhabitants, and to prevent unnecessary waste of water.

Lamps and lighting.

30. To erect lamps, and regulate the lighting thereof; and to provide for lighting streets, public grounds and public buildings with gas or otherwise.

Concealed weapons.

31. To prohibit the carrying or wearing by any person under his clothes, or concealed about his person, any dangerous or deadly weapon; and to provide for the confiscation or sale thereof.

Abuse of animals.

32. To prohibit and punish the abuse of animals, and to compel persons to fasten their horses, oxen or other animals, attached to vehicles or

otherwise, while standing or remaining in any street, alley or public ground.

Preserve the shore of lake.

33. To construct and maintain, at the expense of the city on the shore of Geneva lake, within the city limits, wharves, docks, or piers for the landing of boats, and to grant permission for the construction and maintaining of private wharves, docks or piers, and to make laws regulating the construction, location and use thereof.

Stagnant waters.

34. To provide for the removal of stagnant water, and the draining and removal of obstructions from any watercourse within the city limits, and to prevent the obstruction or defilement thereof.

Hitching horses to trees, etc.

35. To prohibit the hitching of horses, teams or animals to any fence, tree, pump or monument and to prevent injuries thereto.

Bread.

36. To regulate the size and weight of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Inspection of steamboats.

37. To provide for the inspection and regulation of steamboats and steam boilers; to provide a code of signals and rules and regulations to govern boats, navigating the waters of the lake within the municipality, and to prevent unnecessary noise from steam whistles.

How laws and ordinance shall be passed.

SECTION 6. All laws and ordinances, shall be passed by a majority vote of all the members of the common council, and all ordinances before the same shall be in force, shall be signed by the mayor, and shall be published once a week for two successive weeks, in the official newspaper of the city, and within fifteen days thereafter they shall be recorded by the city clerk in books to be provided for that purpose; but before the said laws, ordinances or regulations shall be recorded, the publication thereof, respectively, within the said time shall be proved by the affidavit of the foreman, or publisher of such newspaper, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication.

When to take effect.

SECTION 7. All ordinances shall take effect from and after their approval and publication.

Veto power of mayor.

SECTION 8. The mayor shall have power to veto any ordinance, by-law, act or resolution passed by the common council, by notifying them of his objections thereto in writing on or before the next succeeding stated meeting of the council, and in

case the council shall not, at their next stated meeting, subsequent to the receipt of such objection, re-enact such ordinance, or pass such resolution by the vote of two-thirds of the aldermen elect, the same shall be null and void. If the mayor shall not return any ordinance, by-law, act or resolution presented to him on or before the next stated meeting of the council after the passage thereof, it shall take effect in the same manner as if he signed it.

Reconsideration of votes.

SECTION 9. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

Shall not bar or hinder suits, public nuisances.

SECTION 10. The power conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses or houses of ill-fame are hereby declared and shall be deemed public or common nuisances.

Council shall examine and adjust accounts.

SECTION 11 The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner, marshal and all other officers and agents of the city, at such times as it may deem proper, also at the end of each year, and before the term for which the officers of said city are elected or appointed shall have expired, and the common council shall require each and every such officer and agent to exhibit his books, accounts, moneys and vouchers for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders of the council in the discharge of his duties, in pursuance of this section, or shall wilfully neglect or refuse to render his accounts or present his moneys, books and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council may order suits and proceedings at law against any officer or agent of said city, who may be delinquent or defaulting in his accounts or in the discharge of his official duties; and it shall cause to be made a full record of all its proceedings relating to the matters mentioned in this section.

SECTION 12. No compensation or salary shall

No salary to mayor or aldermen.

be paid to the mayor or any alderman of said city, except such fees as are now or may be hereafter allowed by law.

Contracts to be let to lowest bidder.

SECTION 13. All contracts for work ordered by the common council of said city, the expense whereof shall exceed the sum of fifty dollars ($50), shall be let to the lowest reasonable and responsible bidder, who shall have complied with the requirements hereinafter set forth. All bids and proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city in a penal sum equal to the amount of the bid, which bond shall be signed by the bidder and by a responsible surety, who shall justify that he is worth the sum mentioned in such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditioned that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties to perform the work specified; and in case of failure, said bond may be prosecuted in the name of the city and judgment received thereon for the full amount of the penalty thereof, as liquidated damages, in any court having jurisdiction of the action.

CHAPTER 5.

OPENING OF STREETS, ALLEYS, ETC.

Opening and laying out of streets.

SECTION 1. The common council shall have power to lay out and open public squares, grounds, streets and alleys, and to change, enlarge, extend or vacate the same, and to use lands in said city for the purpose of constructing and repairing sewers and drains as follows: Whenever ten or more freeholders residing in the city shall, by petition, represent to the common council that it is necessary to take certain lands within the city for public use, for the purpose of laying out public squares, grounds, streets or alleys, or enlarging or widening the same, or to use certain lands within the city for the purpose of constructing and repairing sewers and drains, giving the course and distances, metes and bounds, of the lands proposed to be taken, or used as aforesaid, together with the names and residences of the owners of such premises, if the same shall be known to the petitioner, the common council shall, if it deem it necessary to take and use such lands for

the purpose specified in such petition, cause an accurate survey thereof to be made and a plat thereof to be filed with the clerk, and cause notice of such application to be given to the owner or owners of such lands, in case such owner or owners shall reside in the county of Walworth, and to the occupant or occupants of such lands, if any there be, which notice may be served personally or by leaving the same at the place of business, or at the residence of such owner or owners, occupant or occupants; or if a portion of said lands shall not be in the actual occupation of any person, then the common council shall cause such notice, describing as near as may be the premises proposed to be taken, to be published in a public newspaper printed in the city of Lake Geneva, for four successive weeks, at least once in each week.

What notice shall state.

SECTION 2. Such notice shall state that on a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to a justice of the peace residing in said city, who has no title to any of the lands described in such petition, for the appointment of six jurors to view said premises, and to determine whether it will be necessary to take or use the same for the purposes specified in said petition, and if so to assess damages.

Jurors to be appointed.

SECTION 3. Upon presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said justice of the peace shall thereupon appoint, as jurors, six reputable freeholders, residents of the city, and not interested in the result of such application. The said justice of the peace shall thereupon issue his precept, directed to said jurors, requiring them within thirty days from the date thereof, to view such premises, to be specified in said precept, and to make return under their hands to the common council, whether, in their judgment, it is necessary to take or use said premises for the purposes specified in such application.

Disqualified jurors.

SECTION 4. If any of the jurors so appointed shall be disqualified from acting, or shall refuse to act, at any time before the completion of their final award as to damages, the justice of the peace shall appoint others in their place, and a memo-

randum of such substitution shall be indorsed on the precept.

Duties of jurors.

SECTION 5. The said jurors, having first taken the oath hereinafter provided for, shall, at such times as they may agree, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oaths to witnesses.

Jurors shall make a report.

SECTION 6. After viewing the premises and hearing such testimony as may be offered, the jurors shall make a report of their proceeding, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take or use the premises in question for the proposed public use; which said report, testimony and precept shall be returned to the common council within the time limited therein.

Providing jurors report it is necessary to take premises.

SECTION 7. Should the jurors report that it is necessary to take such premises, the common council, if it approves such report, may agree with the several owners as to damages, but if unable to do so, it shall enter an order among its proceedings confirming said report, and directing the same jurors, within one month thereafter, or such further time as may be necessary, to again view said premises, for the purpose of ascertaining and determining the amount of damages, to be paid to the owner or owners of the property proposed to be taken or used, and to assess and return within the time limited, such damages to the common council.

In case building is on premises.

SECTION 8. If there should be any building standing, in whole or in part upon the lands to be taken, which for the proper use of the lands so taken or used, it shall be necessary to remove, the jurors, before proceeding to make assessments, shall first estimate and determine the whole value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him, and secondly, the value of such building to remove.

Notice required to be given.

SECTION 9. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known and a resident of the city, or left at his usual place of abode. If not known or a non-resident, notice to all persons interested

shall be given by publication in a newspaper published in said city, for three successive weeks; which notice shall specify the building and the award of the jurors, and shall require the parties interested to appear by a day to be therein named, or give notice to the common council of their election to accept the award of the jurors, and allow such building to be taken with the land appropriated, or of their intention to remove such building at the value set thereon by the jurors to remove. If the owner shall agree to remove such building, he shall have such time for that purpose as the common council may allow.

If owner refuses to take building at value to remove.

SECTION 10. If the owner refuse to take the building at the value to remove, or fails to give notice of his election as aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the city treasurer for the use of the owner and shall thereafter be paid over to the owner on his application therefor.

SECTION 11. The said jurors, within the time limited, shall view and examine the premises proposed to be taken and used, and after hearing such testimony as may be offered (which shall be reduced to writing by one of said jurors), they shall proceed to make their assessments and to determine and appraise to the owner or owners, the value of the real estate so proposed to be taken or used, and the injury arising to them respectively in consequence of the taking or using thereof, which shall be awarded to such owners respectively as damages, after making due allowance therefrom for any benefit which such owners may respectively derive from such improvement. In the estimate of damages to the lands, the jurors shall include the value of any building or buildings required to be removed if the property of the owners of such lands), as estimated by them as aforesaid, less the proceeds of the sale thereof; or if taken by the owner at the value to remove, they shall only include the difference between such value and the whole estimated value of such building or buildings.

Jurors shall assess the damages.

SECTION 12. The jurors shall assess the damages to every person separately, so that their return shall show how much is to be paid to each,

and the amount shall be placed opposite their respective names.

Providing the lands or premises belong to different persons.

SECTION 13. If the lands or buildings belong to different persons, or be subject to lease, judgment or mortgage, or other incumbrance, or if there be any estate therein less than an estate in fee, the injury done to such person, or interest, respectively, shall be awarded by the jurors to the person entitled thereto, less the benefits resulting to such interests respectively, from the proposed improvements.

Award of jurors to be signed.

SECTION 14. The award of the jurors shall be signed by them, and returned, together with the testimony taken, to the common council, within the time limited in their order of appointment, and shall be final, unless appealed from, in the manner hereinafter provided; and the damages allowed by such award shall be a legal charge against the city.

Land shall not be taken until damages are tendered.

SECTION 15. The lands required to be taken or used for the purposes mentioned in this chapter, shall not be appropriated until the damages awarded to the owner thereof, shall be paid or tendered to the owner, or his agent, or in case said owner, or agent cannot be found, or is unknown, deposited to his or their credit, in some safe place of deposit, to be determined by the common council; and then, and not before, such lands may be taken, or used and appropriated for the purposes required, and the city shall thereafter have the same rights in and power over them, as it has in and over streets, alleys and public grounds previously opened or laid out, except that where the lands are to be used for the purpose of sewers and drains, the city shall have power to go upon, occupy and control said premises only at such times and so far as may be necessary for the purpose of constructing, examining and repairing such sewers and drains.

Former covenants on land to cease.

SECTION 16. When the whole of any lot or tract of land, or other premises, under lease, or other contract or incumbrance, shall be taken or used by virtue of this act, and compensation shall have been made or provided for parties interested, all covenants, contracts, engagements, or liabilities relating to the same, or any part thereof, shall, after the expiration of the time for appeal, as hereinafter provided, respectively cease, and be absolutely discharged.

SECTION 17. When only part of the lot or tract

of land, or other premises so under lease or other contract or incumbrance, shall be taken or used for the purpose aforesaid, such covenants, contracts or incumbrance, shall be absolutely discharged as to the part thereof so taken or used, but shall remain valid as to the residue thereof; and the rents, considerations, liens and payments reserved, payable and to be paid for, in respect to the same, shall be so proportioned that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, or in respect to the same. When only part of said land is taken.

SECTION 18. The damages assessed on each separate lot or tract, shall be paid or tendered or deposited as herein required, within one year from the confirmation of such assessments and report, and if not so paid, tendered or deposited, all the proceedings in any such case as to any lot or tract on which they are so unpaid, shall be void. Damages on each separate piece shall be tendered.

SECTION 19. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant, or labor under disability, the judge of the circuit court of Walworth county, or the county judge, may, upon the application of the common council, or of such party by his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian in the same manner as if he were the party interested. In case of a minor or incompetent person.

SECTION 20. The jurors mentioned in this act shall, before entering on the discharge of their duties, severally take an oath, before some competent officer, that they are freeholders of said city, and not interested in the premises proposed to be taken or used, and that they will faithfully and impartially discharge the trust reposed in them. Jurors to take an oath.

SECTION 21. The city council, or any party interested, may, within twenty days from the return of the jurors to the common council of the benefits and damages so assessed, appeal to the circuit court of Walworth county from the decision of said jurors, so far as it affects the interest of said appellants. Notice of such appeal shall be filed by the appellant, with the clerk of said court, within twenty days above mentioned, and the issue on such appeal shall be made up and tried in said court in such manner as said court shall direct. If any party other than the common Appeal from decision may be taken to circuit court.

council shall file such notice of appeal, he shall, before the trial thereof, give a bond in such sum and with such sureties as shall be approved by said court, conditional to pay all costs of said appeal, if the appellant shall fail to obtain a more favorable judgment than the award appealed from.

In case the court increases or diminishes award.

SECTION 22. In case the amount of damages awarded by the jurors shall be increased or diminished, upon the final determination of the appeal, the city clerk shall attach to said award a copy of the final judgment therein, and such award shall be considered (as to such difference) amended thereby.

Survey of streets to be made.

SECTION 23. Whenever any streets, alleys, or public grounds shall be laid out or extended, or sewers or drains constructed, under the provisions above, the common council shall cause an accurate survey and profile thereof to be made, and filed in the office of the city clerk.

Respecting vacating streets.

SECTION 24. No street or alley, or part thereof, shall be vacated, except upon the petition of the owners of three-fourths of the front, upon such street or alley in the block in or along which such street or alley runs; but the boundaries of streets may be changed upon petition to the council by the parties interested.

Does not affect unplatted lands.

SECTION 25. The foregoing provisions shall not apply to unplatted lands. Roads or streets may be laid out by the common council through unplatted lands, in the same manner as roads are laid out by supervisors in towns.

Directions only directory.

SECTION 26. All the foregoing directions given in this chapter shall be deemed only directory, and no errors, irregularity or informality in any of the proceedings under the provisions of this chapter of this act, not affecting substantial justice, shall, in any way, affect the validity of the proceedings.

CHAPTER 6.

POLL TAX.

Poll tax.

SECTION 1. The common council of said city shall have, and it is hereby granted power to tax annually, each male inhabitant within the corporate limits of said city, between the ages of twenty-one and fifty years, a sum not to exceed one dollar and fifty cents ($1.50), to be denominated a poll tax, and to be appropriated to the im-

provements of streets, roads, alleys and crosswalks in said city.

List of persons liable to pay poll tax.

SECTION 2. On or before the twentieth day of May, in each year, the city clerk shall make out a list of the names of all male persons, over the age of twenty-one and under the age of fifty years, liable to pay such poll tax, with the amount thereof set opposite to each person's name, and submit the same to the common council for correction. When such list is correctly made out, and on or before the first day of June, in each year, the board shall, by order (to be signed by the mayor and clerk and annexed thereto), direct the same to be delivered forthwith to the treasurer for collection. The treasurer shall forthwith proceed to the collection of such tax, and shall demand the same once of each person named in the list, and if any person neglects to pay the same for two days thereafter, then such treasurer shall, in the name of the city sue for and collect such tax with fifty per centum damages on the same, with costs of suit, before a justice of the peace of such city, and in default of payment of such judgment, execution shall issue against the defendant as in cases of tort, and the first process in such action shall be a civil warrant; provided, the council may, by resolution, cause the said poll list to be placed in the hands of the street commissioner to be collected, and the said street commissioner shall have the same authority to collect and receipt for such tax as the treasurer, and shall account for such taxes by him collected in the same manner as for other moneys coming into his hands by virtue of his office. And the treasurer or street commissioner, while said list is in his hands for collection, may put upon the same the names of all such persons liable to such tax as may have been omitted therefrom, who shall then be liable, the same as if their names were originally placed in such list.

Selection of street commissioner.

SECTION 3. The common council shall, at its first meeting for organization in each year, or as soon thereafter as possible, choose, by ballot, a street commissioner, who shall perform such duties in the improvement and repair of streets, walks, gutters, sewers and other public works, as the common council shall direct; he shall collect the poll tax, when placed in his hands, as above provided, and under the direction of the common

council, expend the same on the streets, bridges, crosswalks and highways in said city, and the common council may, by resolution, direct the expenditure of not to exceed one-third of the poll tax upon the highways leading into said city, outside of the corporate limits.

Street commissioner to give a bond.

SECTION 4. Every street commissioner hereafter appointed by the common council shall, before entering on the duties of his office, give a bond to the city of Lake Geneva, with one or more sufficient sureties, to be approved by the council, in the penal sum of not less than fifteen hundred dollars ($1500), conditioned to render an account to the common council, whenever required by law or the ordinances of said city, or by vote of said council, to safely keep and account for, and deliver over when lawfully required, all property of said city that may come into his hands; to use, disburse, or pay over, as required by law, or the ordinance of said city, all moneys that may have come into his possession, as such officer, and to faithfully discharge the duties of said office.

Term of office of street commissioner.

SECTION 5. Every street commissioner shall hold his office for the term of one year, from the first Tuesday in April of the year in which he is appointed, unless sooner removed, as provided in section 7, of this chapter, and shall, on or before the first Monday in November, render an account, under oath, to the common council, showing the amount of money collected by him, as such commissioner, and from whom it was collected, and the amount that has been expended, specifying the work for which it has been expended. Such an account shall be rendered as often as the common council shall require.

Compensation for services.

SECTION 6. The street commissioner shall receive such compensation for his services, which may be by a per diem or a percentage upon the tax collected and expended, as the common council shall determine, and his compensation shall be decided upon at the time of his appointment, and shall not thereafter be changed, except in the manner heretofore prescribed for changing compensation of other officers.

Street commissioner may be removed.

SECTION 7. The common council may, for good cause, by a two-thirds vote of the aldermen, remove the street commissioner and declare his office vacant, after giving him due notice and a chance to be heard, and appoint his successor, who

shall thereafter be entitled to all the emoluments, writs, records, books, papers, property and effects of every description in the hands of the person so removed.

SECTION 8. The street commissioner shall return all unpaid taxes in the manner and form prescribed for such return, by the overseer of highways in towns. Shall return all unpaid taxes.

CHAPTER 7.

STREET IMPROVEMENTS.

SECTION 1. The common council shall have general control and supervision of all streets, alleys and highways within the municipality; and may, whenever it deem it necessary, cause the same to be cleaned, sprinkled, graveled, graded or otherwise repaired, and crosswalks or sidewalks upon or along the same to be built or repaired at the expense of the city. Control and supervision of streets.

SECTION 2. The common council may also cause any street or any part of any street, not less than sixteen rods in length, to be graded, paved, macadamized or otherwise improved, or any sidewalks or gutter to be built, either wholly or in part, at the expense of the adjacent property upon a petition therefor in writing, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least one-half the frontage of such street or part of street to be improved; or may order any sidewalk or gutter on one side of a street or part of a street, to be built as aforesaid on the petition of a majority of such owners, and of the owners of at least one-half of the frontage on such side; and may, without petition, order any sidewalk or gutter previously built to be put in repair or rebuilt. Paving and grading.

SECTION 3. For the purpose of so improving any street, or building or repairing any sidewalk or gutter, the common council may levy and cause to be collected upon the lots, tracts or parcels of ground on such street or part of street improved, or on the side thereof where only such sidewalk or gutter is to be built, and upon the owners thereof, a tax sufficient to pay the expense of constructing such improvement, as ordered, opposite such property to the center of the street, or such proportion thereof, not less than half, as they shall deem justly assessable, to such property, if May levy tax for improvements.

they shall think the whole ought not to be so assessed; in which case the remainder of such expense shall be paid from the city treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency. If any person so taxed shall have constructed such improvement in front of his premises, previous to the order of the common council therefor, and the same shall be done to the satisfaction of the street commissioner, the latter shall deliver to him a certificate to that effect, and thereupon the common council shall remit the tax against the person or property named in such certificate.

Tax list to be delivered to street commissioner for collection

SECTION 4. Whenever the common council shall levy, any such tax as specified in the preceding section, it shall make out and deliver to the street commissioner of such city a list of the persons and a description of the property taxed, together with a warrant signed by the mayor and clerk, for the collection of such tax, and thereupon, if the work be such as is required by this act to be let by contract, or the common council shall deem it for the best interest of the city, it shall so let it; and the street commissioner shall proceed to collect such tax in money; but if the work be not required or directed to be let by contract, the street commissioner shall notify the persons named in such tax list, by publishing a notice two weeks in some newspaper published in said city, and shall specify in such notice a time or times, not less than twenty days nor more than forty days from the date thereof, when the person charged with taxes, in such list, may pay their taxes in labor, materials, or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials: provided, the labor and materials offered in payment of such taxes are such as may be required by the street commissioner, and done and furnished to his satisfaction.

Street commissioner to be provided with a book.

SECTION 5. The street commissioner shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys

coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner. The book containing the account so kept shall, at all times, when required, be furnished for the inspection of the mayor, or common council, and ten days before the expiration of his term of office shall be handed to the city clerk, to be filed in his office for the inspection of the tax payers of his district.

Shall return delinquent list to city clerk.

SECTION 6. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to the city clerk a certified list of the lots, pieces or parcels of land, in said city upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of such lots or parcels of land; and the said clerk shall add the said delinquent taxes to the next tax roll, opposite to the description of the proper lots, pieces or parcels of land therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in said city.

Work to be done at the expense of city.

SECTION 7. Whenever any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be reimbursed by such tax when collected.

Street commissioner shall make slight repairs.

SECTION 8. Whenever the public convenience or safety shall require any sidewalk or gutter, in case of injury or defect to be immediately repaired, and the cost of the repairs will not exceed the sum of ten dollars ($10), the street commissioner may give written notice to the parties subject to the tax for the repairs thereof, if known and residing in said city, that unless such sidewalk or gutter, therein to be specified, be repaired to the satisfaction of the street commissioner, within twenty-four hours thereafter, he will repair the same at the expense of the property; and if the same be not in such time repaired, or whenever the owner shall be non-resident or unknown, such commissioner shall make such repairs and return the cost as a delinquent tax on such property, and the same shall be collected as other delinquent assessments, as hereinbefore provided.

they shall think the whole ought not to be so assessed; in which case the remainder of such expense shall be paid from the city treasury. Every such tax for repair shall be for the entire cost of repairs in front of the property so assessed. If any tax levied under this section shall prove insufficient to pay the cost or proportion thereof assessed to such property, the common council may levy an additional tax thereon to make good such deficiency. If any person so taxed shall have constructed such improvement in front of his premises, previous to the order of the common council therefor, and the same shall be done to the satisfaction of the street commissioner, the latter shall deliver to him a certificate to that effect, and thereupon the common council shall remit the tax against the person or property named in such certificate.

Tax list to be delivered to street commissioner for collection

SECTION 4. Whenever the common council shall levy, any such tax as specified in the preceding section, it shall make out and deliver to the street commissioner of such city a list of the persons and a description of the property taxed, together with a warrant signed by the mayor and clerk, for the collection of such tax, and thereupon, if the work be such as is required by this act to be let by contract, or the common council shall deem it for the best interest of the city, it shall so let it; and the street commissioner shall proceed to collect such tax in money; but if the work be not required or directed to be let by contract, the street commissioner shall notify the persons named in such tax list, by publishing a notice two weeks in some newspaper published in said city, and shall specify in such notice a time or times, not less than twenty days nor more than forty days from the date thereof, when the person charged with taxes, in such list, may pay their taxes in labor, materials, or money; and the persons charged with such tax may, at such time and place as may be required by the said street commissioner, pay their taxes in labor or materials: provided, the labor and materials offered in payment of such taxes are such as may be required by the street commissioner, and done and furnished to his satisfaction.

Street commissioner to be provided with a book.

SECTION 5. The street commissioner shall be provided with a book by the city clerk, in which he shall keep an accurate account of all moneys

coming into his hands by virtue of his office, the amount received and disbursed by him, the name of every person from whom money or labor is due, the amount paid in money or labor, and a correct account of all expenditures by him made as street commissioner. The book containing the account so kept shall, at all times, when required, be furnished for the inspection of the mayor, or common council, and ten days before the expiration of his term of office shall be handed to the city clerk, to be filed in his office for the inspection of the tax payers of his district.

Shall return delinquent list to city clerk.

SECTION 6. At the expiration of forty days from the date of said notice given by said street commissioner, he shall make out and deliver to the city clerk a certified list of the lots, pieces or parcels of land, in said city upon which any such tax remains unpaid, with the amount of such delinquent tax upon each of such lots or parcels of land; and the said clerk shall add the said delinquent taxes to the next tax roll, opposite to the description of the proper lots, pieces or parcels of land therein; and such delinquent taxes shall be collected with and in the same manner as other taxes in said city.

Work to be done at the expense of city.

SECTION 7. Whenever any lot, parcel or tract of land shall be returned delinquent for any such tax as hereinbefore provided, the common council may cause the work to be done at the expense of the city, to be reimbursed by such tax when collected.

Street commissioner shall make slight repairs.

SECTION 8. Whenever the public convenience or safety shall require any sidewalk or gutter, in case of injury or defect to be immediately repaired, and the cost of the repairs will not exceed the sum of ten dollars ($10), the street commissioner may give written notice to the parties subject to the tax for the repairs thereof, if known and residing in said city, that unless such sidewalk or gutter, therein to be specified, be repaired to the satisfaction of the street commissioner, within twenty-four hours thereafter, he will repair the same at the expense of the property; and if the same be not in such time repaired, or whenever the owner shall be non-resident or unknown, such commissioner shall make such repairs and return the cost as a delinquent tax on such property, and the same shall be collected as other delinquent assessments, as hereinbefore provided.

Owner may be requested to set out ornamental trees.

SECTION 9. The common council shall have power to require the owner of any lot, or parcel of ground in the city, to set out ornamental trees in the street or streets fronting on the same, and in default thereof to cause the same to be done, and to levy a special tax upon such lot or parcel of ground to pay the expense of the same.

CHAPTER 8.

FIRE DEPARTMENT.

Fire limits may be prescribed.

SECTION 1. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of other materials, that shall not be considered fire proof, may be erected, repaired or removed, and to direct that all and any buildings within the limits prescribed, shall be made and constructed of such fire-proof material, and in such a manner as it may ordain, and to prohibit the removal of buildings into such fire limits, or the removal of any building or buildings situated or located within such fire limits, and to prohibit the repairing of wooden buildings within the fire limits, when the same shall have been damaged to the extent of fifty per cent. of value thereof, and to prescribe the manner of ascertaining such damages.

Construction of chimneys.

SECTION 2. The common council shall have power to regulate the building, construction and condition of chimneys, fire-places, hearths, stoves, stove pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire-buckets, and in such manner and times as they shall prescribe, and to regulate the use of them in time of fire; to regulate and prevent the carrying on of any manufactories dangerous in causing and promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs and stairs, or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of a fire all idle and suspected persons, and to compel all bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such

regulation for the prevention and extinguishment of fires as the common council may deem expedient, and enforce the provisions of this chapter and the ordinances under it by suitable penalties.

Power to purchase fire engines.

SECTION 3. The common council shall have power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and to prohibit their meetings as such when disbanded. Each company shall be officered and governed by its own by-laws, provided such by-laws be not inconsistent with the laws of this state or with the ordinances and regulations of the city. Every active member of any company in said city shall be exempt from serving on juries and from poll tax and military duty, except in case of war, invasion or insurrection, and whenever a member of a fire, hook and ladder, bucket and hose company shall have served therein for ten years, he shall be entitled to a discharge, signed by the mayor, and shall thereafter be exempt as aforesaid.

CHAPTER 9.

SCHOOL DISTRICT.

Bounds of school districts.

SECTION 1. The school district now embracing the present village of Geneva and a part of the towns of Geneva, Lyons and Linn, shall remain intact, and the same territory shall remain therein, excepting there shall be added thereto, any and all territory within the limits of the city, not heretofore contained in said school district, and the management of school matters shall remain the same as it has heretofore existed in the said village of Geneva.

CHAPTER 10.

AUDITING ACCOUNTS.

Auditing accounts.

SECTION 1. No account or demand against the city shall be paid until it has been audited and allowed, and an order drawn on the treasury therefor. Every such account shall be made out by items and verified by affidavit, endorsed or annexed to the effect, that the same is just and correct and no part thereof paid (or if paid in part, except as therein stated), and that said account has

not been presented before. When an account shall have been audited, the clerk shall endorse on each account the word "allowed" or "disallowed," as the fact is, adding the amount allowed, if any, and specifying the items or parts of items disallowed, if disallowed in part only. The minutes of the proceedings of the council shall show to whom and for what purpose every such account was allowed, and the amount. Every such account allowed in whole or in part shall, with the affidavit thereto, be filed with the clerk, and those of each year consecutively numbered, and have indorsed the number of the order issued in payment therefor, and the clerk shall take receipts for such orders.

Council cannot issue negotiable order or borrow money except by unanimous vote.

SECTION 2. Neither the common council nor any officer of the city, shall have power to issue any time or negotiable order, or borrow any money, except in the manner and for a purpose expressly declared by statute or by this act; but the common council may, in case of temporary necessity, by unanimous vote of the council, and not otherwise, borrow money in anticipation of the tax to be levied for the current year, not exceeding one per centum of the assessed valuation of the property in said city, according to the last assessment, and may give orders on the treasury payable at a future date therefor, with or without interest; but no such order shall be made payable at a later date than the first day of March following the date of issue of such order, and for the payment of any such order, the city tax for the same year, or a sufficient amount thereof, shall stand irrevocably pledged.

Property cannot be sold for judgment.

SECTION 3. No real or personal property of the city or any of its inhabitants, or of any individual or corporation therein, shall be levied on or sold by virtue of any execution issued to satisfy any judgment against said city.

Defects of sidewalks, injury resulting therefrom.

SECTION 4. Neither the city nor any officer thereof shall be liable for any damage that may happen, by reason of any defect or insufficiency in any sidewalk, street, highway or bridge in said city, unless the street commissioner shall have first had actual notice of such defect or insufficiency, and reasonable time thereafter to repair the same, or place the same in good order, or unless the same shall have existed for so long a time that notice may be presumed.

SECTION 5. No action shall lie or be maintained against the city unless a statement in writing, signed by the person injured, or claiming to be injured by any act or neglect of the city, or any of its officers of the injury and time, place and circumstances thereof, and the amount of damages claimed, shall be presented to the common council, within thirty days after the occurring or happening of the injury alleged; nor unless such action be commenced within one year after the date of such injury. Respecting actions against city.

SECTION 6. No action for injury to the person shall lie or be maintained against said city, unless the person claiming injury shall permit the mayor or common council, by a physician of his or its appointment, to make personal examination of the alleged injury, as often as requested after the time of its infliction, until the amount of damages is adjusted. Respecting actions for injuries.

SECTION 7. No action shall hereafter be maintained by any person against the city, upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim or demand to the common council of said city. Respecting actions against city.

SECTION 8. When the claim of any person against the city shall be disallowed, in whole or in part by the common council, such person may appeal from the decision of such council to the circuit court of Walworth county, by causing a written notice of such appeal to be served on the clerk of said city, within thirty days after the making of such decision, and executing a bond to such city, with sufficient surety, to be approved by said clerk, county judge or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court. Disposition of claims.

SECTION 9. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by the ordinance or resolutions of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said council, with its decisions thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of Walworth, and such appeal shall be Duties of clerk when appeal is made.

entered, tried and determined in the same manner as appeals from justices of the peace, and costs shall thereupon be awarded in like manner: provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery, and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Determination of council to be final.

SECTION 10. The determination of the common council, disallowing in whole or in part any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court, founded on such claim, unless an appeal be taken as hereinbefore provided, or the common council shall consent to the institution and maintenance of the action; provided, however, that when the council shall refuse or neglect to act upon a claim to it duly presented, this chapter shall not be construed as to prevent the institution and maintenance of an action by said claimant against said city.

CHAPTER 11.

FINANCES AND TAXATION.

Funds to be under control of council.

SECTION 1. All funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn upon the order of the mayor, countersigned by the clerk, duly authorized by a vote of the common council, and in no other manner, and all orders drawn upon the treasury shall specify the purpose for which they are drawn, and shall be payable generally out of any funds in the treasury belonging to the city.

No debts to be contracted unless by majority vote.

SECTION 2. No debts shall be contracted by the city, or order be drawn on the city treasury, unless the same shall be authorized by a majority of the common council, and the vote authorizing the same shall be entered by ayes and nays upon the journal of the council whenever the same shall be asked for by any one member; and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act.

and for the payment of indebtedness now existing. City orders shall be receivable for all city taxes, except school and special taxes for bridge and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city, or the city's proportion of the bonds of the town of Geneva, which shall be collected in money or in orders drawn upon such funds respectively; and all orders shall be payable to the person or to the order of the person in whose favor they may be drawn.

Taxes for current expenses.

SECTION 3. The common council shall annually levy a tax not exceeding one per centum upon the total assessed valuation of the city, to defray the current expenses thereof, including highway tax; and for schools, bridges and the bonded indebtedness of said city, such sum as a majority of the electors thereof shall vote at any annual or special meeting.

Penalties to be paid into city treasury.

SECTION 4. All forfeitures and penalties, accruing to the city for a violation of this act, or any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become a part of the general fund, except as otherwise provided by this act. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a vote of five of the aldermen elect.

All property taxable for city government.

SECTION 5. All property, real or personal within the city, except such as may be exempt by the laws of this state, shall be subject to annual taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided. The assessor elected under this act shall have and possess the same powers, and perform the same duties as are or may hereafter be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors.

Laws governing assessor.

SECTION 6. The assessor elected by virtue of this act shall, in all things pertaining to his office so far as practicable, be governed by the same laws as assessors in towns.

Board of review.

SECTION 7. The mayor, supervisors, clerk and assessor shall constitute the board of review, and

shall meet at the chambers of the common council, on the first Monday in August in each year, and shall proceed in all respects as town boards are by law required to proceed.

City to be regarded as town for equalizing purposes

SECTION 8. The county board of supervisors shall have the right to regard the city of Lake Geneva as a town, in equalizing the assessment rolls of the several cities and towns in Walworth county, as provided by law, but in such equalization shall consider the assessment roll of said city as an entire roll, and shall not change the relative valuation of the different wards.

Board of supervisors may levy taxes.

SECTION 9. The said board of supervisors may levy a tax or taxes in the same manner as now is, or may hereafter be provided by law, in relation to towns, but shall proceed therein without regard to the division of the city into wards, and shall cause the amount of taxes so levied to be certified to the city or city clerk, in the manner provided by law in relation to towns or town clerks; and in all transactions of the board of supervisors of said county, said city shall be regarded as a town, except as herein otherwise provided.

Duty of city clerk when statement of tax is received.

SECTION 10. Upon receiving the statement of the amount of taxes so levied, the city clerk shall make out upon the assessment roll, in columns left for that purpose or upon a copy thereof, a complete statement of the several taxes levied for state, county, city or other purposes, and all delinquent taxes, if any, of previous years and all special taxes levied by the common council, since making out of the last annual tax list, in such separate columns as may be necessary, with the total footing carried out opposite each tract or lot of land or person named therein, which statement shall be called "the tax list of the city of Lake Geneva," and shall be preserved by said clerk as a record in his office, and shall have the same legal force and effect as the records of the common council.

Tax list shall be prima facie evidence.

SECTION 11. The tax list made out and preserved as aforesaid, shall be *prima facie* evidence in every court of record in this state that every act or thing required by law to be done, relating to assessing or levying of taxes, from the election of officers to the completion of the tax list inclusive, had been done regularly, correctly and as required by law.

SECTION 12. Immediately after making out the

tax list aforesaid, the clerk shall make out a duplicate copy thereof which shall be called the tax roll, to which shall be appended a warrant signed by the mayor and clerk, and sealed with the corporate seal of said city, directed to the treasurer requiring and commanding him to collect the taxes and assessments specified in said tax roll, in the manner provided by law; and the said clerk shall, on or before the first day of December of the same year, or as soon thereafter as practicable, deliver the same to the city treasurer for collection, and make a record of such delivery on the tax list preserved in his office. Clerk shall make a duplicate copy.

SECTION 13. The city treasurer, upon the receipt of such tax roll, shall proceed to collect the taxes therein in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers, except as otherwise provided in this act. The city treasurer shall receive one per cent. fees upon all taxes paid to him before the tenth day of January, and three per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city. City treasurer shall collect.

SECTION 14. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Walworth county a list of all lands, lots and personal property upon which taxes have not been paid, and shall also settle with and pay all moneys properly payable to said county treasurer, in like manner as now is or may hereafter be required of town treasurers; and all the provisions of chapter 49 of the revised statutes of 1878, and acts amendatory thereof, shall extend to, and may be enforced to collect any delinquent personal property tax. Return of delinquent tax roll.

SECTION 15. The county treasurer shall sell all delinquent lands and lots returned from the city of Lake Geneva, at the same time and in the same manner as other delinquent lands are sold in the county. County treasurer shall sell.

SECTION 16. All the directions hereby given, except in section 9, of this chapter, for assessing of lands, and the levying, collecting and return of taxes and assessments, and the sale thereof, shall be deemed only directory, and no error or infor- Directions only deemed directory.

mality in the proceedings of any of the officers entrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Special taxes for purchase of fire engines.

SECTION 17. In addition to the amount herein limited for taxes for general city purposes, special taxes may be levied for the purchase of fire engines, cemetery grounds, public squares, gas purposes, and other objects of public utility; but no such tax shall be levied, unless the same shall first be recommended by the common council, and afterwards submitted to a vote of the people, and approved by them. Whenever the council shall recommend such a tax, it shall specify the amount to be raised and the object thereof, and cause notice thereof, and of the time and place of voting thereon, to be published in the same manner as in case of the annual city election.

Proceedings in case money is low in treasury.

SECTION 18. When the treasurer shall be unable to pay any order drawn on the treasury, it shall be his duty to report the fact to the first regular meeting of the council. Thereupon, the council shall direct its finance committee to examine the accounts of the treasurer, and if all funds in his hands have been paid out, then the council shall take such action as will enable the city to preserve its credit.

State tax shall first be paid.

SECTION 19. Out of the taxes collected by the city treasurer, the state tax shall first be paid; then all school taxes; then county taxes; then judgments; then all special taxes, in the order in which they were levied. Delinquent returns shall be received by the county treasurer in payment of county taxes, in the manner provided by law.

Meeting for unfinished business.

SECTION 20. The common council shall meet on Tuesday evening, one week previous to the holding of the charter election, for the purpose of disposing of the unfinished business, and shall not thereafter, during its term of office, allow any bills against the city, but may anticipate and provide for the payment of salaries of officers for the balance of its term.

Investment of surplus funds.

SECTION 21. All surplus funds belonging to the city, not needed for immediate use, may be invested as the council may direct, or borrowed for the temporary use of the other funds of the city, and all interest and profits arising from such investment shall belong to the city, and shall be accounted

for in the same manner as other funds are accounted for.

CHAPTER 12.

ACTIONS TO RECOVER PENALTIES.

Actions to recover penalties.

SECTION 1. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it.

Prosecutions to be by summons.

SECTION 2. In all prosecutions for any violation of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as hereinafter provided.

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF WALWORTH, } ss.
City of Lake Geneva. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Lake Geneva:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned justice of the peace in and for said city, at my office in said city, on the ——— day of ———, 18—, at ——— o'clock in the ——— noon, to answer to the city of Lake Geneva, to the damage of said city, two hundred dollars ($200) or under.

Given under my hand, this ——— day of———, 18—. C. D., Justice of the Peace.

When returnable.

SECTION 4. Such summons shall be made returnable and served in the same manner as is now, or hereafter may be prescribed by the laws of this state, for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced

by summons and triable before justices of the peace.

SECTION 5. When the action is commenced by summons, the complaint may be substantially in the following form:

Form of complaint.

CITY OF LAKE GENEVA, against A. B. } In Justice Court.

Before C. D., Justice of the Peace.

The plaintiff complains against the defendant, for that the defendant on the —— day of ———, 18—, at the said city, did violate (section ——, of chapter ——, of this act, or section ——, of an ordinance or by-law or regulation of said city, describing it by its title), which said ——— is now in force. By reason of such violation an action hath accrued to the city of Lake Geneva, to recover of the defendant the sum of ——— dollars debt, wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 6. In all cases where application is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

CITY OF LAKE GENEVA, against A. B. } Before C. D., Justice of the Peace.

County of Walworth, ss.

E. F., being duly sworn, on oath complains to C. D., justice of the peace in and for the city of Lake Geneva, in said county, that A. B., on the ——— day of ———, 18—, at said city, did violate (section ———, of chapter ———, of this act, or section ———, of an ordinance or by-law or regulation of said city, describing it by its title), which said ——— is now in force, as this complainant verily believes, and prays that said A. B. may be arrested and held to answer to said city of Lake Geneva therefor.

Sworn and subscribed to before me this ——— day of ———, 18—.

Requirements.

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated in the foregoing forms of complaint, and said com-

plaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with a justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF WALWORTH, } ss.
City of Lake Geneva. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal or any policeman of the city of Lake Geneva greeting:

Whereas ——— ——— has this day complained to me in writing, on oath, that A. B., on the——— day of ———, 18—, at said city did violate (section ——— of chapter ——— of this act, or section ——— of an ordinance or by-law or regulation of said city, describing it by its title), which said ——— is now in full force, as the complainant believes; therefore you are commanded to arrest the body of said A. B. and bring him before me forthwith, to answer to the city of Lake Geneva on the complaint aforesaid.

C. D., Justice of the Peace.

How justice shall proceed.

Upon the return of the warrant the justice shall proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court, for his, her or their appearance in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the watchhouse in such village or the common jail of Walworth county, and shall be received and kept therein the same as in criminal actions, except as modified by this act or the ordinances of said city. The complaint made as aforesaid shall be the only complaint required, and the plea of not guilty shall put in issue all subject matter embraced in the action.

Printed copy shall be prima facie evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on

trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without fees in advance.

SECTION 8. Witnesses and jurors shall attend before justices of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof, their attendance may be compelled by attachment.

Trial by jury.

SECTION 9. In city prosecution both plaintiff and defendant shall enjoy the right of trial by jury, as in civil actions in justices' courts, and the findings of the court shall be either "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant and the non-payment thereof, the justice shall forthwith issue execution as in cases of tort, in case the action was commenced by summons, and a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time in the execution or commitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF WALWORTH, } ss.
City of Lake Geneva. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal or policemen of the city, and to the keeper of common jail of said county, greeting:

Whereas, the said city of Lake Geneva, on the —— day of ———, 18—, recovered a judgment before the undersigned, justice of the peace in and for said city, against —— ———, for the sum of ——— dollars, together with ——— dollars and — cents, costs of suit, for the violation of (section ——— of chapter ——— of this act, or section ——— of an ordinance or by-law, or regulation of said city, describing it by its title); you are hereby commanded to levy by distress of the goods and chattels of the said —— ———, excepting such as the law exempts, and make sale thereof accord-

ing to law to the amount of said sums together with your fees and twenty-five (25) cents for this writ; and the same return to me within thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said ——— ———, and him convey and deliver to the keeper of the common jail of Walworth county; and said keeper is hereby commanded to receive and keep in custody in said jail the said ——— ——— for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this —— day of ———, 18—. C. D., Justice of the Peace.

Form of commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and return of writ.

Right of appeal.

SECTION 10. Any defendant, feeling aggrieved by the judgment of a justice of the peace in an action commenced under the provisions of this act, may appeal from such judgment in the manner provided by the general laws of this state; such defendant shall, within twenty-four hours, enter into a recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return together with the proceedings, and a copy of the entries on his docket in the action, together with the recognizance to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Appeal to stand for trial.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof after the day of judgment of the justice shall be rendered; and no notice of trial shall be required to be given to or by either party.

SECTION 12. If the judgment of the justice shall be affirmed, or if, upon the trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act, or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment

against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Not to work incompetency.

SECTION 13. No person shall be incompetent to the office of judge, justice, witness or juror, by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

Old ordinances to remain in force.

SECTION 14. All ordinances and regulations now in force in the village of Geneva, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

City to carry along ordinances, etc., of village.

SECTION 15. All actions, rights and penalties, fines and forfeitures, which have arisen or accrued under the several ordinances of the corporate village of Geneva, or which may hereafter arise or accrue under said ordinances during the time they may remain in force, as provided in the last preceding section, shall be vested in and prosecuted by the corporation hereby created.

How city may be served with process.

SECTION 16. When any suit or action shall be commenced against said city, the service thereon shall be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk of said city so served, forthwith to inform the common council thereof, or to take such action or proceeding as by the ordinance or resolution of said council may be in such cases provided.

Penalties to be paid into city treasury.

SECTION 17. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city.

General laws established.

SECTION 18. The general laws for the preservation of bridges, and the punishment provided by such laws for the wilful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges extending across water courses in said city, and shall apply to any wilful or malicious damage which may be done to them by any person or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or watercraft, or by the

master or any person in command thereof, such vessel or watercraft may be proceeded against by the said city, under the law to provide for the collection of demands against boats and vessels, which does now or may hereafter exist.

CHAPTER 13.

MISCELLANEOUS PROVISIONS.

Description of lots in village plats.

SECTION 1. The plats of the village of Geneva, and the additions thereto heretofore executed and recorded, are hereby adopted as plats of the city of Lake Geneva and additions thereto, and the real estate included in said plats may be hereafter described by lots and blocks, as they appear on said plats, and by describing the plats as "the original plat of the village of Geneva, now city of Lake Geneva, or the plat of a specified addition to the village of Geneva, now city of Lake Geneva, and in like manner with the plats of other additions, or in any other manner, so as to describe the land with reasonable certainty.

Poor laws.

SECTION 2. All laws in relation to the support of the poor in towns shall apply and be in force in said city.

Property of village to be turned over to city.

SECTION 3. All moneys, property, effects and credits belonging to the present village of Geneva, shall belong to the city of Lake Geneva, and shall be transferred to the proper officers of said city by the persons in charge of the same, as soon as such officers shall be elected and qualified; and the title to all real estate and public grounds now belonging to said village of Geneva, shall pass to and vest in said city of Lake Geneva.

Lawful debts, claims to be transmitted.

SECTION 4. Any lawful debt, claim, demand or right of action against the present village of Geneva, shall be and become a lawful debt, claim, demand or right of action against the city of Lake Geneva, and any and all irregularities that may exist by virtue of "re-incorporating" said village, and the election or appointment of any and all officers, and the acts of any and all officers or pretended officers of said village, shall in no way invalidate or be set up as a defense by the said city of Lake Geneva, or any person or persons in any action upon any bond issued by said village, or any other debt, claim and demand against said village.

Board of equalization.

SECTION 5. The board of review of the city of Lake Geneva, together with the board of supervisors, clerk and one assessor of the town of Geneva, shall constitute a board of equalization, who shall meet annually at the council chamber in said city on the third Monday in August in each year, for the purpose of apportioning the bonded indebtedness of said town maturing the ensuing year. Said board shall at such meeting carefully examine the assessment rolls of said city and town, and determine and assess the relative aggregate value of all the taxable property in each, which is liable to taxation for the payment of said bonded indebtedness; and upon the equalized valuation so determined and assessed, shall apportion the amount of said bonded indebtedness next thereafter maturing, between said city and said town, *pro rata* according to the relative equalized valuation of each. The said valuation and apportionment shall be incorporated in a resolution, to be certified in duplicate by the mayor and clerk of the city, and the chairman and clerk of the town, and one copy thereof filed in the office of the clerk of each municipality. The said town and city clerks shall thereupon carry out upon their respective tax rolls, upon a uniform percentage, opposite each valuation in said roll subject to taxation therefor, the amount required to be raised upon such valuation to realize in such town or city its proportion of said indebtedness as thus apportioned, and the amount to be raised by said city shall be paid over by the city treasurer to the town treasurer on or before the date of maturity of the said indebtedness.

Respecting bonds and their apportionment.

SECTION 6. In case the electors of said city or of said town shall, by vote or resolution at any annual or special election, determine to call in and pay or refund the bonds of said town which are now payable, at the option of said town, in the year A. D. 1886, or thereafter, the said board of equalization shall, at their next meeting, apportion the whole of said bonded indebtedness, subject to the option aforesaid, between said town and city, in the manner provided in the last preceding section. The city of Lake Geneva may in such case issue and negotiate bonds of said city, for its proportion of said indebtedness, payable at such times, and bearing such rate of interest as may be determined by its electors, in the manner

and upon such notice as is provided in respect to the issue of town bonds by sub-division 7, of section 776, of the revised statutes.

SECTION 7. No general law contravening the provisions of this act, shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

SECTION 8. This act is hereby declared to be a public act, and shall be liberally and favorably construed in all the courts of this state, and shall take effect as hereinbefore provided. Public act.

Approved March 30, 1883.

[No. 467, A.] [Published April 10, 1883.]

CHAPTER 183.

AN ACT to revise, consolidate and amend the charter of the city of Oshkosh, the act incorporating the city, and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER I.

CITY AND WARD BOUNDARIES.

SECTION 1. All that district of country in the county of Winnebago contained within the limits and boundaries hereinafter described, shall be a city by the name of "Oshkosh;" and the people now inhabiting, and those who shall hereafter inhabit within the district of country herein described, shall be a municipal corporation by the name of the "City of Oshkosh," and by that name capable of suing and being sued in all courts of law and equity. Name of city.

SECTION 2. The territory included in the following boundary and limits shall constitute the city of Oshkosh, to-wit: Commencing at a point where the north line of section eighteen (18), town eighteen (18), range seventeen (17) east, intersects the shore of Lake Winnebago, running thence west along the section line and the continuation thereof, to the center of the Oshkosh and Winneconne highway; thence northwesterly along the center of said highway until it intersects the north line of fractional lot five (5), section ten (10), town eighteen (18) north, range sixteen (16) east; thence due west to the produced one-eight ($\frac{1}{8}$) line run- City boundaries.

ning north and south through the west half (½) of section fifteen (15), town eighteen (18) north (range eighteen (18) north), range sixteen (16) east; thence south along said one-eighth (⅛) line to the southwest corner of the southeast quarter (¼) of the southwest quarter (¼) of said section fifteen (15); thence east eighty (80) rods, more or less, to the southeast corner of said southeast quarter (¼) of the southwest quarter (¼) of section fifteen (15), thence south to the southwest corner of the southwest quarter (¼) of the southeast quarter (¼) of section twenty-seven (27), town eighteen (18) north, range sixteen (16) east; thence east to the northwest corner of fractional lot one (1), of section thirty-six (36), town eighteen (18) north, range sixteen (16) east; thence south to the southwest corner of said fractional lot one (1); thence east to the shore of Lake Winnebago; thence northeasterly along the shore of Lake Winnebago to the place of beginning.

Ward boundaries.

SECTION 3. The territory included in the following boundaries and limits shall constitute the different wards of the said city of Oshkosh, to-wit:

FIRST WARD.

All that portion of said city lying north of Fox river and west of the center of Main street, and south of the section line on the north side of sections twenty-three (23) and twenty-four (24) shall constitute the first ward.

SECOND WARD.

All that portion of said city bounded on the south and east by Fox river and Lake Winnebago, and on the west by the center of Main street, and on the north by the center of Washington street, shall constitute the second ward.

THIRD WARD.

All that portion of said city which lies east of a line through the middle of Minnesota street from Fox river to the north line of the southeast quarter (¼) of the southeast quarter (¼) of section twenty-six (26), of town eighteen (18) north, range sixteen (16) east; thence east to the center of Oregon street; thence south through the center of Oregon street to the south line of the city shall constitute the third ward.

SIXTH WARD.

All that portion of said city which lies west of

a line running through the middle of Minnesota street from Fox river to the north line of the southeast quarter of the southeast quarter of section twenty-six (26) of town eighteen (18) north, range sixteen (16) east, and south of a line running thence east to the center of Oregon street, and also west of a line through the middle of Oregon street, from Eighteenth street to the south line of the city, and south of Fox river, and south of a quarter line running east and west through sections twenty-two (22) and twenty-three (23), township eighteen (18) north, of range sixteen (16) east, shall constitute the sixth ward.

FOURTH WARD.

All that portion of said city lying north of the center of Washington street, and bounded on the west as follows: Commencing at the northwest corner of section thirteen (13), town eighteen (18) north, range sixteen (16) east; thence south to the center of Irving street; thence east to the center of Main street; thence south until it intersects the center of Washington street aforesaid, shall constitute the fourth ward.

FIFTH WARD.

All the residue of the said city shall be called the fifth ward.

CHAPTER II.

RIGHTS AND POWERS OF THE CORPORATION.

SECTION 1. The people now inhabiting and who shall hereafter inhabit the district of country described in the preceding chapter, shall be a corporation of the name of the "City of Oshkosh," and shall have the general powers possessed by municipal corporations at common and statute law; and in addition thereto shall possess the rights and privileges hereinafter specifically granted. General powers.

CHAPTER III.

OFFICERS — THEIR ELECTION AND APPOINTMENT.

SECTION 1. The power and government of said city and corporation shall be in the mayor and common council, subject to the reservations and exceptions hereinafter expressly contained. In whom powers of government vested.

SECTION 2. The common council shall be composed of the mayor and aldermen. How council composed.

City officers.

SECTION 3. There shall be the following city officers elected annually by the qualified electors of the city at large: A mayor, a city clerk and a city treasurer. There shall also be elected three assessors, one to be elected by the qualified electors of the First and Fifth wards, one to be elected by the qualified voters of the Second and Fourth wards, and one to be elected by the qualified electors of the Third and Sixth wards.

Board of review.

SECTION 4. The mayor, clerk and assessors of said city of Oshkosh, and two aldermen from different wards, appointed by the common council, shall constitute the board of review of the city of Oshkosh. The members of the board of review, except the city clerk, shall have same compensation per day as the assessors. The time for which the members of the board of review shall receive compensation shall not exceed twenty days. The mayor shall be chairman *ex-officio* of said board.

Compensation.

SECTION 5. The members of the board of assessors shall not receive compensation for a longer time than sixty days for making the assessment of the real and personal property of said city.

Justices of the peace.

SECTION 6. There shall be elected at the charter election to be held on the first Tuesday in April, A. D. 1883, and every two years thereafter, by and from the qualified electors of said city, one justice of the peace who shall be a resident of said city and who shall hold his office in the first, second or fourth wards of said city. And there shall be elected at the charter election to be held on the first Tuesday in April, A. D. 1884, and every two years thereafter, by and from the qualified electors of said city, one justice of the peace, who shall be a resident of said city, and shall hold his office in the third ward of said city. Each of said justices of the peace shall hold his office for the term of two years and until his successor is duly elected and qualified.

School commissioners.

SECTION 7. There shall be elected at the annual charter election in 1883 one school commissioner from each the second, fourth and sixth wards and at the charter election in 1884 there shall be elected one school commissioner from each the first, third and fifth wards and so alternately thereafter; said commissioners shall be elected by the qualified electors of each ward for their respective

wards and shall be residents of the ward for which they are elected.

SECTION 8. The terms of all such city officers shall be one year, except justice of the peace and school commissioner, which shall be for two years. Terms of office.

SECTION 9. There shall be three aldermen from each ward, to be elected by the qualified electors of each ward, for their respective wards; two elected at each annual charter election, one for one year and one for two years. The ballots shall designate which alderman is voted for the term of two years. The alderman elected for two years at the last election shall hold his office for the term for which he was elected. Aldermen.

SECTION 10. The qualification of each officer shall be that he is a qualified elector of and in said city. Qualification of officers.

SECTION 11. Vacancies in any of said offices shall be filled by the council, except in the office of the justice of the peace, which may be filled by special election. Vacancies.

SECTION 12. Vacancies so filled shall be to the next annual charter election, and in case of vacancy in any office filled by an election by the people, for the term of two years, the same shall be filled at such election, for the unexpired term.

SECTION 13. Any person selected or elected for or to any of the aforesaid offices, before entering upon the duties thereof, shall subscribe, take and file with the city clerk an oath that he will honestly and faithfully discharge the duties of his office, to the best of his ability; and may be required by the council, at any time, to give a bond, or bonds, to the city of Oshkosh, in such penal sum, with such conditions, such surety and qualifications as the council may require, to be approved by the council, and the council may, from time to time, require new, further, or additional bonds from any such officer, and upon his neglect to give the same, may remove him from office; provided, that the city treasurer shall not be deemed to have qualified until he shall have given a bond to the city, approved by the council; and, provided further, that in the discharge of any of his duties he shall not be required, and shall not give any bond other than to the city of Oshkosh. Oath and bonds.

SECTION 14. All such officers shall hold until their successors are duly elected or selected, and duly qualified, except aldermen. Tenure of office.

Power of council to remove from office.

SECTION 15. Upon written charges and notice, the common council, by a two-thirds vote of all present, may remove from office any such officer, for negligence, malfeasance, or misconduct in office. The mayor, or city clerk, upon the hearing and investigation, by the council, of such charges, shall be authorized to administer the necessary oath to witnesses. Any justice of the peace of the city is authorized to issue subpœnas for witnesses to attend before said council, wherein the city shall be nominally plaintiff, and the party charged, defendant. In case of neglect or refusal of witness to attend and testify, the justice of the peace who issued the process of subpœna shall have the same power to issue warrant of attachment and punish for contempt by law, as in cases in justices' courts, where witness refuses or neglects to appear or testify.

When terms of office to commence.

SECTION 16. The term of office of such elective officers shall commence on the first Tuesday next after the annual charter election.

When office deemed vacant.

SECTION 17. If any officer shall fail to qualify, that is to say, to do what is required on his part to qualify, unless prevented by sickness or unavoidable absence, within ten days after notice of his election or selection, given by the clerk officially, his office shall be vacant.

Policemen may act as constables.

SECTION 18. The chief of police and any of the regular police of said city, regularly employed and paid by the city, may become a constable in and for said city by taking the oath and giving the bond required by law for the qualification of constables, the bonds to be approved by the council, said oath and bond to be filed with the city clerk. When such person shall cease to be a policeman, he shall cease to be a constable.

CHAPTER IV.

ELECTIONS.

Anuual elections.

SECTION 1. The annual elections for city and ward officers shall be held on the first Tuesday of April of each year, at such places as the aldermen of the proper wards may designate; the polls shall be kept open from nine o'clock until twelve o'clock in the forenoon, and from one o'clock until sundown of the same day; and there shall be given ten days' previous notice, by publication in at least two papers published within the city,

of the time and places of holding such election, and the city and ward officers to be elected.

Tie vote.

SECTION 2. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council, at such time and in such manner as the common council shall direct. All votes for elective officers shall be upon one ballot and shall be deposited in one ballot box.

Qualifications and oath of electors.

SECTION 3. All persons entitled to vote for county and state officers, and who shall have been a resident within the ward where they offer to vote, for ten days next preceding the time of holding said election, shall be entitled to vote for any officer elected under this act; a residence shall be construed to mean the place where such elector lodges, and if required shall take the following oath: "I swear (or affirm) that I am of the age of twenty-one years; that I am a citizen of the United States (or have declared my intention to become a citizen, conformably to the laws of the United States on the subject of naturalization); and have been a resident of this state for one year immediately preceding this election, and a resident of this ward for ten days immediately preceding this election; and I do further swear (or affirm) that I have made no bet or wager, or become directly or indirectly interested in any bet or wager depending upon the result of this election." All persons illegally voting, and all fraud, deceit or corruption at any election under this act shall be punished according to the laws of this state, made and provided for the punishment of illegal voting, fraud, deceit or corruption at any general election.

Qualification of officers.

SECTION 4. No person shall be eligible to hold any office mentioned in this act unless he shall be at the time a resident elector of the city, nor shall any person be eligible to any ward office unless he shall be at the time a resident elector of the ward in which such office exists; provided further, that no resident elector of any ward shall be eligible to the office of alderman, school commissioner or fire warden, unless he be a resident freeholder of the ward in which the office exists.

How elections to be conducted.

SECTION 5. The elections in said city shall be conducted by the aldermen of each ward, who shall be inspectors of election; they shall take the usual oath of affirmation, as prescribed by the general laws of this state for the inspectors of elections, and shall have power to appoint clerks of election, and to administer the necessary oaths. Vacancies in such ward, of inspectors, shall be filled in the same manner as provided by the laws of the state for vacancies on boards of inspectors at general elections.

Penalty for illegal voting and violation of duty as officer of election.

SECTION 6. If any person offering to vote at any election pursuant to this act, shall be challenged as unqualified by any elector, or by one of the inspectors, the inspectors, before receiving such vote, shall require the party challenged to take the oath mentioned in section three of this chapter, and if any person shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon indictment or information in the circuit court of Winnebago county, shall suffer the penalties prescribed by law for the punishment of perjury. If any person who is not a qualified voter shall vote at any election herein provided for, or if any person shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be liable, and on conviction thereof, shall forfeit and pay one hundred dollars ($100), and in default of such payment shall be imprisoned in the county jail not to exceed thirty days. It shall be the duty of the inspectors to keep a list of names of all persons voting, as well as those whose votes may be challenged, and who shall swear in their votes; and if any inspector shall knowingly and corruptly receive the vote, or shall make any false statement or return of any election, or shall alter or change any vote, he shall be liable and on conviction thereof, forfeit and pay a sum not less than one hundred dollars ($100), nor more than five hundred dollars ($500), and in default of such payment shall be imprisoned in the county jail not to exceed thirty days. If any clerk shall not write down the name of every voter as he votes at any election under this act, or shall add to or diminish from the poll list kept by him or by his associates, or shall wilfully make untrue or incorrect count and tally of votes, he shall be liable, and on conviction thereof, shall

forfeit and pay a sum not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

Canvass and return of votes.

SECTION 7. When the polls of an election shall have been closed, and the number of votes for such candidate, or person voted for, shall have been counted and ascertained, said inspectors and clerks shall make a return thereof, duly signed, stating therein the number of votes for each person, and the office designated, and the whole number of votes cast, and shall deliver such return, together with the oaths of the inspectors and clerks, and the poll list kept by them, to the city clerk, within three days after any election. Within one week after each and every annual municipal election held under this act, the common council shall meet, and canvass said returns, and declare the result, as it appears from the returns, and the city clerk shall, within three days thereafter, give notice to each person elected, of his election. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, in the same manner, and the returns thereof shall be made in the same form and manner as of annual elections, and within such time as may be prescribed by ordinance. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse, for ten days after notice of his election or appointment, to qualify and enter upon the discharge of the duties of such office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy, as herein prescribed.

Terms of office.

SECTION 8. All city and ward officers now in office, shall hold their respective offices until their successors shall be elected or appointed and qualified under this act; and the term of every officer elected under this act shall commence on the second Tuesday of April of the year for which he was elected, and shall, unless herein otherwise provided, continue for one year, and until his successor is elected, or appointed and qualified. Should there be a failure by the people to elect any officer herein required to be elected on the day designated, the common council may order a new election to be held, ten days' notice of the time and place of holding the election being first given.

First election.

SECTION 9. The first election of officers under

the provisions of this act shall be held on the first Tuesday in April, 1883.

County supervisors.

SECTION 10. Each ward of the city shall be represented in the board of supervisors of the county of Winnebago by one supervisor; such supervisor shall be elected annually by the electors of the wards, at the same time and in the same manner as ward aldermen are elected.

CHAPTER V.

DUTIES OF OFFICERS.

Duties of mayor.

SECTION 1. The mayor, when present, shall preside over the meetings of the common council, and see that the laws of the state and the laws and ordinances of the city are duly enforced, and that all officers of the city discharge their respective duties; he shall, from time to time, give the common council such information and recommend such measures as he may deem proper and advantageous to the city, and shall perform all duties imposed on him by this act, or by the ordinances or resolutions of the common council. It shall be his duty generally to maintain the peace and good order of the city. He shall vote in the common council only in case of a tie vote. The mayor shall have power to veto any ordinance or resolution passed by the common council, except such resolutions as are by special charters exempted from such veto power, and shall have power to command and direct the chief of police and the policemen of the city at all fires, riots, disturbances of the peace and tumultuous assemblages, and may, for disobedience of his orders or misconduct of any member of the police force, verbally or in writing, suspend such member of the police force and stop his pay, until the common council shall take final action on the order of suspension.

President of council.

SECTION 2. The council, at its first meeting in each year, or as soon thereafter as practicable, shall elect one of its members president, who, in the absence of the mayor at its meetings, shall preside; and who, in case of the absence of the mayor from the city or his inability to discharge the duties of his office for any reason, or in case the office of mayor shall become vacant, shall act as mayor and discharge all the duties of his office. If both mayor and president are absent from

any meeting of the council, the council may elect a temporary president; and while acting in their respective capacities shall have the power and discharge the duties of mayor, and shall be styled "acting mayor."

Duties of clerk.

SECTION 3. The clerk shall keep the corporate seal and all papers and records of the city, and keep a record of the proceedings of the common council, at whose meetings it shall be his duty to attend; he shall keep an accurate and detailed account of the financial condition of the city and of each ward as the common council prescribe; he shall so keep the books of said city that every subject of taxation shall be entered under its proper head, as state, county, schools, bridges and the like; he shall make copies of assessments of the city when required by the common council, and shall make and complete all tax rolls; he shall also keep an accurate account with the city treasurer, and charge him with all taxes levied and sums paid into the treasury; he shall make out a list of all outstanding city bonds and coupons, to whom, when and where payable; he shall report as often as the common council shall require, an estimate of the expenses of the city and of the several wards, and of the revenue necessary to be raised for the current year; and shall countersign all contracts made in behalf of the city, and unless they be so countersigned they shall have no validity; he shall countersign all orders drawn on the city treasury by order of the common council, and shall keep a correct record of the same; he shall, *ex officio*, be clerk of the board of education, clerk of the board of public works, clerk of the board of health, clerk of the board of assessors, and clerk of the board of review; provided, that the salary fixed for the services of said clerk by the common council shall cover and include the compensation of that officer for his services as a member of the board of review; he shall attend the meetings of such boards, and keep a correct record of the proceedings thereof; he shall file in his office all chattel mortgages presented to him for that purpose, and safely keep the same, receiving therefor the same compensation as clerks of towns, and all chattel mortgages so filed shall be as valid and legal as if the same had been filed in any town clerk's office in any town, and copies of all papers filed in his

office, and transcripts from the records in his office, and of the common council, certified by him under the corporate seal, shall be evidence in all courts, in like manner as if the original were produced. The clerk shall have power and authority to administer oaths and affirmations.

Duties of treasurer.

SECTION 4. The treasurer shall receive all moneys belonging to the city, and keep an accurate and detailed account thereof, together with an account of all disbursements, in such manner as the common council may direct; all money of whatever description, raised by tax, license, fine, penalty, forfeiture or otherwise, for city purposes, shall be paid into the city treasury; he shall collect all taxes and assessments which may be levied or assessed upon the real and personal property in the city, and exercise the same powers when not prescribed by this act, as control and govern treasurers of towns, and shall be subject to the same liabilities; provided, that he shall receive no fees for his services except such salary as shall be paid him by the city; he shall pay all orders drawn upon the treasury by order of the common council, or as is otherwise authorized, out of the proper funds; he shall report to the common council quarterly, a full and detailed account of all receipts and expenditures after the date of the last quarterly report, which statement shall be filed with the city clerk; and at the expiration of his term of office, shall hand over to his successor all moneys, books, papers and property in his possession belonging to said city. The books kept by said treasurer shall be open to inspection by any person at all reasonable times.

Duties of city attorney.

SECTION 5. The city attorney shall conduct all law business of said city and the departments thereof, and all other business in which the city shall be interested, and when so ordered by the common council, he shall furnish written opinions on subjects submitted to him by the mayor or council, or any department of the corporation; it shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments in writing as may be required by the common council, and to perform such other duties as may be prescribed by the ordinances of the city or by any resolution of the common council.

SECTION 6. The city surveyor shall be a practical surveyor and engineer; he shall keep his office at some convenient place within the city, and the common council shall prescribe his duties and fix his fees and compensation for any service performed by him. All surveys, plans, profiles and estimates made by him for the city shall be the property of the city, and shall be carefully preserved in the office of the surveyor, open to the inspection of all parties interested; and, when required by the common council, he shall file copies of plans, profiles and estimates with the city clerk, and all books and papers appertaining to said office shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the common council. Duties of city surveyor.

SECTION 7. The chief engineer of the fire department shall in all cases have control of the different fire companies of the city, their engines, steamers and fire apparatus, and also the direction and control thereof, when called out on duty, subject only to the control of the common council; he shall see that the engines, steamers and apparatus of the fire department are kept in perfect order and readiness for immediate use, and cause all necessary repairs to be made without letting the same by contract, and report the same to the common council for approval and allowance; he shall use his utmost endeavors in preventing and subduing fires and controlling the firemen thereat; he shall perform such other and further duties as are prescribed in other provisions of this act, and by the ordinances of the common council. Duties of chief engineer.

SECTION 8. The aldermen of each ward may have power to appoint some suitable person to act as street superintendent for their ward, who shall receive such compensation for his services as the aldermen aforesaid shall provide to be paid out of the ward fund of the respective wards for which he is appointed, and be subject to the control and discretion of said aldermen, and subject to removal by the aldermen of the ward for which he was appointed. Street superintendent and salary of same.

SECTION 9. The superintendent of schools shall be, *ex-officio*, president of the board of education, and in case of a tie shall give the casting vote; he shall have the superintendence of all public schools, school houses, books and apparatus; he shall visit all schools as often as his duties will Duties of superintendent of schools.

require, and pay special attention to the classification of the pupils in the several schools, and to the apportionment among the classes of the prescribed studies; he shall carefully observe the teachings and discipline of all teachers employed in the public schools, and shall report to the board whenever he shall find any teacher deficient or incompetent in the discharge of his or her duties; he shall attend all meetings of the board of education, when required, and shall keep the board constantly informed of the condition of the public schools, and the changes required in the same.

Duties of chief of police.

SECTION 10. The chief of police shall attend all meetings of the common council and shall perform such duties as shall be prescribed by this act or by any ordinance of the city for the preservation of the peace, for the health of the city, and the collection of fines and license money; he shall possess the powers of constable at common law or by the laws of this state, and shall receive like fees and be subject to the same liabilities; it shall be his duty to execute and return all writs and process to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of the state of Wisconsin; he shall, under the direction of the mayor, be chief executive of the police department; he shall repair to all fires, riots and tumultuous assemblages, take charge of the police present, and use every exertion to protect property, disperse mobs, and cause to be arrested all persons engaged in disturbing the peace; to apprehend any person in the act of committing any offense against any ordinance of said city or the laws of this state, and, within reasonable time, bring such person before competent authority for examination; he shall have power to direct the policemen to any place where he shall deem their services necessary; he shall promptly report to the mayor all complaints against the policemen, and cause to be obeyed all rules and regulations prescribed for the police department; and he, or some policeman appointed by him, shall be keeper of the watchhouse, and keep the keys thereof.

Duties of policemen.

SECTION 11. It shall be the duty generally of all policemen appointed by the common council, to faithfully perform such duties as shall be pre-

scribed by the ordinances, laws and resolutions of the common council for the preservation of the public peace and health of the city, and they shall possess all common law and statutory power of constables; they shall faithfully abide by all ordinances prescribing the manner and extent of their duties, and the time in which duties are to be performed; they shall perform the duties of eight watchmen for the city, if required, under such regulations as the common council shall prescribe.

Duties of peace officers.

SECTION 12. The mayor, sheriff of Winnebago county, each and every alderman, justice of the peace, chief of police, policeman and constable, shall be officers of the peace, and suppress in a summary manner, all riotous and disorderly behavior within the limits of the city, and for such purpose may command the assistance of all bystanders, and, if need be, of all citizens; if any person shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars ($50). It shall be lawful for the mayor, any alderman, chief of police, every policeman or constable of the city, to arrest forthwith any person who shall be drunk, disorderly, riotous or doing any act which shall, by this act, be construed to be a misdemeanor, or by warrant, to arrest any person whom they, or any of them, shall find committing any violation of the laws or any ordinance of the city, and to take such person before a justice of the peace of the city, or if it be out of office hours, or for any other good reason an examination cannot be had, to confine such person so arrested in the watch-house, until such time as an examination can be had.

Duties of fire wardens.

SECTION 13. The several fire wardens of the city shall examine as to the construction of all chimneys, fire places, hearths, stoves, stove-pipes, ovens, smoke stacks, boilers and fire apparatus used in and about any building, and shall have power to prevent the improper construction thereof; and may cause them to be removed and placed in a safe and secure position; they shall prevent the depositing or keeping of ashes or any combustible material in any place except such as is safe; and they shall perform other and such further duties as may be ordered or prescribed by the common council.

SECTION 14. The justices of the peace, elected

Jurisdiction and duties of justices of the peace.

under this act, shall have the same jurisdiction and perform all duties of justices of the peace as provided by the general laws of this state, except that their official bond shall be approved by the common council; and they shall hold their offices at such places as the common council shall designate; and in addition thereto they shall have jurisdiction in all cases arising under the ordinances and laws passed by said city, unless otherwise provided.

Duties of board of assessors.

SECTION 15. The three assessors elected under this act shall constitute the board of assessors, and shall, in all things pertaining to their office, so far as practicable, be governed by such laws as assessors in the several towns in this state. Within ten days after qualifying, it shall be the duty of the assessors of the several wards to organize into a board of assessors by electing one of their number chairman, who shall be authorized to administer such oaths as shall be authorized by this act; and within such time as the common council shall designate, the said assessors shall make out a complete and accurate assessment roll, and perform such other and further duties as are prescribed by this act, or shall be required by any ordinance or resolution of the common council. Any assessor who shall neglect to perform the duties of his office, or shall use any partiality in assessing the property of any individual, corporation or association, in anything pertaining to his office, shall, upon conviction, suffer and pay a penalty of not less than one hundred (100) nor more than five hundred dollars ($500), at the discretion of the court before whom conviction is had.

Boards of aldermen.

SECTION 16. The aldermen of each ward of the city shall constitute a board of aldermen for their respective wards, two of whom shall be a quorum to act, whose meetings shall be held at the office of the city clerk. The city clerk shall be a clerk of the board of aldermen. No alderman shall be a party to or interested in any job or contract with the city or any of the wards, except that he may act as a street commissioner, and be paid for such services, and any contract in which any alderman shall be so interested shall be null and void; and in case any money shall have been paid upon any such contract, the common council may sue for and recover the amount so paid from the parties

to such contract and the aldermen interested in the same.

Inspector of boilers.

SECTION 17. The common council shall have power, whenever deemed necessary, to appoint an inspector, whose duty it shall be to inspect all boilers, engines and other apparatus deemed dangerous to life, used in and about any shop, manufactory or other building in the city, to examine the same and to report whether they are in a safe and secure condition; and for that purpose said inspector shall have authority to enter into any shop, manufactory or building in said city; said inspector shall receive such fees as the common council shall prescribe, to be paid by the owner or lessee of the engine, boiler or other such apparatus so inspected; and if said inspector shall report that any engine, boiler or other apparatus is in an unsafe or dangerous condition, the owner or lessee thereof shall immediately place the same in a safe and secure condition, and for every day's neglect to repair the same, while running such engine, boiler or other apparatus, such owner or lessee shall forfeit and pay a fine of not less than twenty (20) nor more than one hundred dollars ($100).

Printing and publishing.

SECTION 18. The common council shall, at the first regular meeting of the new council in each year, or as soon thereafter as may be, order the city clerk to advertise for proposals for all the printing and publication necessary to be done by the city, except as otherwise provided herein; and said printing and publication shall be let to the lowest bidder, who shall be styled the city printer; provided, that said printing shall be let to the printer of some newspaper published in the city. The city printer or printers, immediately after the publication of any notice, ordinance or resolution, which by this act is required to be published, shall file with the clerk of the city, a copy of such publication, with his or their affidavit, or the affidavit of his or their foreman, of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance or resolution. In letting the city printing the common council shall have the right to reject any and all bids.

Mayor to be member of county board of supervisors.

SECTION 19. The mayor of the city of Oshkosh shall be *ex officio* a member of the county board of supervisors of the county of Winnebago, and shall have and exercise the same powers and

privileges in said board as other members thereof are entitled to, and shall be paid the same compensation for his services as may be paid to any other members of the board.

Mayor to be member of board of review.

SECTION 20. The mayor shall be *ex officio* a member of the board of review, and shall receive the same compensation therefor as assessors.

Further duties of officers.

SECTION 21. The common council shall have power, from time to time, to require further and other duties of any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties, and to fix the compensation of all officers elected or appointed by the common council. Such compensation shall, by resolution, be fixed at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the time such officer shall remain in office.

Penalty for refusing to deliver.

SECTION 22. All city officers at the termination of their office, shall immediately deliver to their successors in office all property, money, books, papers and effects of every description in their possession belonging to the city, or pertaining to the office they may have held; any person who may have held an office neglecting or refusing so to do shall forfeit and pay to the use of said city one hundred dollars ($100), besides all damages caused by such neglect or refusal, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of the state for other officers.

Terms of present officers.

SECTION 23. Nothing herein contained shall be so construed as to change or interfere with the term of office of any officer now holding office in said city, but the term of all such officers shall continue the same as if this act had not been passed.

CHAPTER VI.

COMMON COUNCIL — ITS GENERAL POWERS AND DUTIES.

Meeting of common council.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Oshkosh do ordain, etc." The majority of the aldermen elect shall constitute,

a quorum. The common council shall annually meet on the second Tuesday of April, after the annual municipal election, at the council rooms in said city, and at such other times as they, by resolution, shall appoint. The mayor, or a majority of the common council, for any good reason, may call special meetings, by notice to each of the members, to be served personally, or to be left at their usual place of abode. The common council shall determine the rule of its own proceedings, and be the judge of the election and qualification of its members.

Appointment of officers at first meeting.

SECTION 2. At the first meeting of the common council, or as soon thereafter as may be, the following officers shall be appointed by the common council: President of the council, superintendent of schools, city attorney, city surveyor, chief engineer, chief of police and policemen, inspector of hay and wood for the city at large, and such other officers as the interest and welfare of the city may require.

General powers of council.

SECTION 3. The common council shall have the control and management of all the finances and of all the property of the city; and shall likewise, in addition to the power herein vested in them, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws, for the government and good order of the city, for the suppression of vice and for the prevention of crime, and for the benefit or trade, commerce and health thereof, and as they shall deem expedient, declaring and imposing penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules or by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for the purposes shall have authority by ordinances, resolutions or by-laws:

Finances.

1st. To manage and regulate the finances, and to regulate, preserve and dispose of the property, real and personal, belonging to the city.

Taxes.

2nd. To adopt all legal and requisite measures for levying and collecting taxes and assessments.

License of shows.

3rd. To license, prohibit, regulate, tax and suppress the exhibitions of common showmen or

shows of any kind, or the exhibition of caravans, circuses, theatrical performances, musical entertainments, billiard tables and bowling saloons, and ten pin alleys or nine pin alleys; to prescribe the amount to be paid for such license and the time when such license shall expire. And to grant licenses for the selling of spirituous or fermented liquors, ale or beer, and to revoke the same for a violation thereof, and the amount to be paid for any such license for the selling of spirituous or fermented liquors, ale or beer, shall be the sum of seventy-five dollars ($75) per annum, except druggists, who shall pay for such license the sum of sixteen dollars ($16) per annum, and to prescribe the time when such license shall expire; and may require of all persons applying for license for the sale of spirituous, vinous or fermented liquors, ale or beer, a bond in such penal sums and with such provisions as the common council shall direct: provided that no person so licensed shall give away or sell spirituous, vinous or fermented liquors, ale or beer, on election days or Sundays.

License for selling liquors.

Gaming.

4th. To restrain or prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice and other games of chance for the purpose of gaming in said city.

Riots and disturbances.

5th. To prevent any riots, noise, disturbance or disorderly assemblages; to suppress and restrain disorderly houses and groceries and houses of ill-fame; and to authorize the destruction of all instruments and devices used for the purpose of gaming.

Unwholesome nuisances.

6th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city.

Regulate breweries, etc.

7th. To direct the location and management of, and regulate breweries, tanneries and packing houses; and to direct the location, management and construction of, and regulate, license, restrain, abate or probibit within the city, distilleries, slaughtering establishments, establishments for steaming or rendering lard, tallow, offal, and such other substances, as can or may be rendered, and all establishments or places where any nauseous,

offensive or unwholesome business may be carried on.

8th. To establish and regulate public markets, determine their location and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations. Public markets.

9th. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, fruit, eggs and other provisions in the city; to restrain and punish the forestalling of poultry, fruit and eggs, and to cause the seizure and destruction, or other disposition, of tainted, unwholesome meat, butter, vegetables, fruit or provisions. Butchers, meat, game, vegetables.

10th. To direct or prohibit the location and management of houses for the storing of gunpowder or other combustible and dangerous materials within the city. Gunpowder.

11th. To regulate and restrain the keeping and conveying of gunpowder and other combustible and dangerous materials, and the use of candles and lights in barns, stables and out-houses.

12th. To prevent the shooting of firearms and crackers, and to prevent the exhibition or use of any fireworks at any time or in any situation which may be considered, by the council, dangerous to the city or to any property therein, or annoying to any citizen thereof. Firearms and fireworks.

13th. To prevent the encumbering of the streets, sidewalks, lanes, alleys, public grounds, wharves and docks with carriages, carts, wagons, sleighs, sleds, wheel-barrows, boxes, lumber, firewood, timber, posts, signs, awnings, or any substance or material, or in any manner whatsoever. Encumbering of streets.

14th. To prevent horse racing and immoderate riding or driving in the streets, and to authorize any person to stop persons immoderately riding or driving as aforesaid; to prohibit and punish the abuse of animals, and to compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise, while standing or remaining in any street, alley or public ground. Horse racing, fast driving or riding.

15th. To regulate and determine the times and places of bathing and swimming in the canals, rivers, harbors or other waters in and adjoining Bathing or swimming.

said city, and to prevent any obscene or indecent exhibition, exposure or conduct.

Vagrants and beggars.

16th. To restrain and punish vagrants, mendicants, street beggars and prostitutes, and to restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Public pound.

17th. To restrain, regulate or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the restraining, impounding and sale of the same, for the penalty incurred and the costs of proceedings; and also to impose penalties on the owners of any such animals for a violation of any ordinances in relation thereto.

Dogs.

18th. To prevent the running at large, of dogs in the said city, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

19th. To provide for licensing the keeping of dogs in said city at a sum or rate of not less than one dollar ($1.00) nor more than ten dollars ($10) a year for each dog, and to provide for a badge or token to be carried by each licensed dog, and for the killing and destruction in a summary manner of all dogs not licensed wherever the same may be found within the city, and of licensed dogs at large in the streets, alleys or public grounds in said city, and to punish persons keeping unlicensed dogs.

Hackmen, draymen, etc.

20th. To license, regulate and suppress hackmen, draymen, cartmen, porters, omnibus drivers, cabmen, carmen, and all others, whether in the permanent employment of any corporation or otherwise, who may pursue like occupations with or without vehicles, and to prescribe their compensation.

Hoops, balls, kites, etc.

21st. To prevent and regulate the rolling of hoops, flying of kites, playing of ball, riding of bicycles and velocipedes, or other amusements or practices having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

Contagious and infectious diseases.

22d. To make regulations to prevent the introduction of contagious or infectious diseases into the city, or their spread therein.

23d. To abate all nuisances, which are or may be injurious to the public health, in any manner they may deem expedient, and to do all acts and make all regulations which may be necessary or expedient for the preservation of health and the suppression of disease. Abating nuisances.

24th. To regulate the burial of the dead and registration of births and deaths; to provide hospital and cemetery grounds; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons and others for any default in the premises. Mortuary.

25th. To abate and remove all nuisances under the ordinances or at common law, and punish the authors thereof by penalties, fine and imprisonment, and to define and declare what shall be deemed nuisances, and authorize and direct the summary abatement thereof; but nothing in this act shall be so construed as to oust any court of its jurisdiction to abate and remove nuisances in the streets, or any other parts of said city or within its jurisdiction by indictment or otherwise. Common law measures.

26th. To prevent any person from bringing, having or depositing within the limits of said city, any putrid carcass or other unwholesome substance, and to require the removal or destruction of the same by any person, who shall have upon or near his premises any such substance, or any putrid or unsound beef, pork, fish, hides or skin of any kind, and on his default to authorize the removal or destruction thereof by some officer or officers of the city at the expense of such person or persons. Putrid carcasses.

27th. To erect and establish one or more pest houses, hospitals and dispensaries, and control and regulate the same. Pest houses.

28th. To prevent the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, performances and devices tending to the collection of persons on the streets or sidewalks, by auctioneers or others, for the purpose of business, amusement or otherwise. Auctioneers.

29th. To control, regulate or prohibit the use of steam whistles within the limits of the city. Steam whistles.

30th. To control and regulate the streets, alleys and public grounds in said city, and provide for sprinkling the same at the cost of the lots or parts of lots fronting thereon; and to remove and abate any obstructions and encroachments therein. Streets.

Removal of snow and dirt.

31st. To compel the owners or occupants of buildings or grounds to remove, and keep snow, ice, dirt or rubbish from the sidewalk, street or alley opposite thereto; and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the board of health shall direct; and on their default to authorize the removal or destruction thereof, by some officer of the city, at the expense of such owners or occupants.

Control of streets and bridges.

32d. To control, regulate, repair, amend and clean the streets, and alleys, bridges and side and crosswalks, and open, widen, straighten and vacate streets and alleys, and establish and alter the grade thereof; and prevent the encumbering of the streets and alleys in any manner, and protect the same from any encroachment or injury; and to regulate the manner of using the streets and pavements in said city, and protect the same from injury by vehicles used thereon.

Sidewalks.

33d. To prevent all persons from riding or driving any horse, ox, mule, cattle or other animal on the sidewalks in said city, and protect the same from injury or damage.

Pounds, etc.

34th. To make, establish and regulate public pounds, pumps, wells, cisterns and reservoirs, and provide for the erection and maintenance of water works for the supply of water to the inhabitants, and to prevent the unnecessary waste of water.

Street lights.

35th. To erect lamps and regulate the lighting thereof; and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Bread.

36th. To regulate the sale of bread within said city, and prescribe the assize and weight of bread in the loaf, and the quality of the same; and to provide for the seizure and forfeiture of bread baked contrary to such regulations and prescriptions.

Weights and measures.

37th. To require every merchant, retailer, trader and dealer in merchandise or property of any description which is sold by measure or weight, to cause his weights and measures to be sealed by the city sealer, and to be subject to his inspection, and to provide for the punishment of persons using false weights and measures. The standards of such weights and measures shall be conformable to those established by law in this state.

Hay, wood, etc.

38th. To regulate the weighing and sale of hay,

and the places and manner thereof; to regulate the cutting and sale of ice, and to restrain the sale of such ice as is impure; also to regulate the sale and measuring of wood, and the weighing and selling of coal and lime, and the places and manner thereof; and to appoint suitable persons to superintend and conduct the same, and to define their duties.

39th. To regulate the times, places and manner of holding public auctions or vendues. Auctions.

40th. To tax, license and regulate auctioneers, distillers, brewers and pawn-brokers, and all keepers or proprietors of junk-shops and places for the sale and purchase of second-hand goods, wares and merchandise; and to tax, license, regulate and restrain hawkers and peddlers, and runners or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments; and other runners, including runners or solicitors for mercantile houses from other cities and towns for the sale of goods, wares and merchandise by sample, order or otherwise; and keepers or proprietors of gift book stores, gift concerts and other gift enterprises; and to fix and regulate the amount for licenses under this sub-division, and to prescribe the time for which such licenses shall be granted, and to provide and enforce penalties for carrying on either of said trades, kinds of business or employments without license, and to regulate the manner in which they shall be carried on; provided that no such license shall be granted for a less term than three months, nor for a longer term than one year and that the amount to be paid for any such license shall not be less than at the rate of ten dollars ($10) per year, nor greater than at the rate of two hundred and fifty dollars ($250) per year, for the carrying on of either of said trades, kinds of business or employments. Licenses.

41st. To regulate the places and manner of selling pickled and other fish. Fish.

42d. To regulate the inspection of whisky and other liquors to be sold in barrels, hogsheads and other vessels. Whisky.

43d. To provide for the inspection and regulation of stationary steam engines and boilers. Engines and boilers.

44th. To appoint inspectors, weighers and guagers, and regulate their duties and prescribe their fees. Weighers and guagers.

45th. To establish and regulate public grounds, Public grounds

parks and boulevards, and to purchase grounds for same.

Policemen. 46th. To appoint watchmen and policemen, and regulate the police and prescribe their duties.

Numbering houses. 47th. To compel the owners and occupants of all houses, stores or other buildings within the city of Oshkosh to number the same in such manner as the common council may from time to time prescribe.

Noxious weeds. 48th. To declare the weed commonly called the Canada thistle, and other noxious plants and weeds on lots, parts of lots and lands in said city, a public nuisance, and to proceed to abate the same as the said city is authorized by law to abate other nuisances.

Fines. 49th. To impose fines for all violations within the limits of said city of the general laws of the state, when, in their judgment, it is necessary for the peace and good order, or for the health of said city.

Trees. 50th. To direct and regulate the planting and preserving of ornamental trees in the streets and public grounds.

Rivers and harbor. 51st. To preserve Lake Winnebago, the Fox river within the limits of the city and the waters known as the Oshkosh harbor, and prevent any use of the same or any act in relation thereto inconsistent with or detrimental to the public health or calculated to render the waters of the same, or any part thereof, impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes or other substance or filth, or floating matter; to prevent and remove all obstructions therein and punish the authors thereof; to prescribe, regulate and control the time or times, manner and speed of all boats, crafts and vessels passing the bridges over the Fox river in said city, or the canals in said city, and of coming to and departing from the wharves of said city, and to regulate and prescribe, by ordinances, such location of the steamboats, crafts or vessels afloat within the Fox river and the harbor of said city, and such changes of station therein as may be necessary to promote order in said river and harbor and the safety and convenience of the different water crafts and vessels therein, as near as may be, and to enforce such ordinances by penalties, not exceeding one hun-

dred dollars ($100) for any offense against such ordinance.

52d. To regulate and control the construction of piers and wharves extending into Lake Winnebago and the Fox river in said city; and to prescribe and control the prices to be charged for pierage or wharfage thereon, and to regulate, prescribe and control the prices to be charged for dockage and storage within the city. Piers and wharves.

53d. To lease the wharving privileges of the Fox river, at the end of streets, upon such terms and conditions, and with such reservations as said city may deem best.

54th. To authorize the taking up, and to provide for the safe keeping and education, for such periods of time as may be deemed expedient, of all children who are destitute of proper parental care, and growing up in mendicancy, ignorance, idleness and vice. Indigent and destitute children.

55th. To authorize the arrest, fine and imprisonment, as vagrants, of all persons who, not having visible means to maintain themselves, are without employment, idly loitering or rambling about, or staying in groceries, drinking saloons, houses of ill fame or houses of bad repute, gambling houses, railroad depots, or fire engine houses; or who shall be found trespassing, in the night time, upon the private premises of others, or begging, or placing themselves in the streets, or other thoroughfares, or public places, to beg, or receive alms; also keepers, exhibitors or visitors at any gaming table, gambling house, house of fortune-telling, place for cock-fighting, or other place of device; and all persons who go about for the purpose of gaming, or watch-stuffing, or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any place where public or private schools are held, either on week day or Sabbath, or places where religious worship is held. Vagrants.

56th. To regulate or prohibit the carrying or wearing by any person under his clothes, or concealed about his person, of any pistol or colt, or slung shot, or cross knuckles, or knuckles of lead, brass or other metal, or bowie knife, dirk knife, or dirk or dagger, or any other dangerous or deadly weapon; and to provide for the confiscation or sale of such weapon. Concealed weapons.

57th. To control and regulate the construction

Chimneys or smoke stacks.

of buildings, chimneys and stacks; and to prevent and prohibit the erection or maintenance of any insecure or unsafe building, stack, wall or chimney in said city, and to declare them to be a nuisance and to provide for their summary abatement.

Halls, theatres, opera houses, etc.

58th. To declare that it shall be unlawful for any hall, theater, opera house, church, school house or building of any kind whatsoever to be used for the assemblage of people unless the same is provided with ample means for the safe and speedy egress of the persons therein assembled in case of alarm.

Public grounds.

59th. To require the mayor and chief of police to detail a sufficient number of men from the police force of the city to take charge of the public grounds of said city, and to properly enforce the pound ordinances thereof, and to provide for the election of one or more pound keepers, and for the payment of such pound keepers, either by salary or fees, or partly by both; and to make all necessary rules and regulations for the enforcement of any pound ordinance of said city.

Fire department—precautions against fire.

60th. To establish a fire department within the city, and prescribe the duties of officers and members thereof, and to regulate the construction of chimneys and smoke stacks and the cleaning thereof; to prevent the setting up or to require the removal of stoves, pipes, boilers and ovens deemed dangerous; to prohibit or regulate the deposit of ashes; to authorize any city officer, or any person designated by them, to inspect any place or places to ascertain whether the same are in safe condition, and if not, to require the same to be made so, and also to regulate the carrying on of manufactories dangerous in causing or promoting fires; to extend and define, from time to time, the grounds to be enclosed in the fire limits: to require, regulate or prohibit all such other acts to be done as they may deem proper to prevent the occurrence, or to provide for the extinguishment of fires.

Street railroads.

61st. To grant by ordinance the right of way through any street or over any bridge of the city, to any person, persons or corporation proposing to build thereon street railroads, the cars thereon to be propelled by horse power; and to grant them rights and privileges, under such limitations and conditions as they may direct.

62d. To control and regulate the manner of erecting brick and stone walls for buildings, and the thickness of the same, and to prohibit the construction, or require the removal of any such as they may deem dangerous to life or injurious to property, and prescribe penalties for the violation of such rules and regulations; to raze or demolish any building or structure, which, by reason of fire, or any other cause, may become dangerous to life or health, or may tend to extend a conflagration. Erection of buildings.

63d. To direct the digging down and filling up of lots, wherever the same may be deemed necessary to prevent injury to the streets, side or crosswalks, or to the adjoining property, at the expense of the owners thereof, and to prevent, prohibit and cause the removal of all obstructions and encumbrances in and upon all wharves, streets, lanes, alleys, sewers, gutters, ditches, streams and public grounds in said city. Grading lots.

64th. To erect and establish a watchhouse, for the confinement of disorderly, drunken, or riotous persons or vagrants, and to purchase or lease all necessary grounds, and pass all such ordinances for the regulation thereof, as may be necessary, and to appoint a keeper and as many assistants as may be necessary. Watch house.

65th. To regulate and prohibit the use of locomotive engines within the city, and to require railroad cars to be propelled by other power than that of steam; to direct and control the location of railroad tracks; to require railroad companies to maintain and control, at their own expense, such bridges, viaducts, tunnels, gates, barriers, or other conveniences, at public railroad crossings, as the common council may deem necessary, and to enforce such ordinances by penalties, to be collected from the railroad companies, or by arresting the engineers, firemen, or conductors operating the trains in violation thereof, or by imposing such other penalties, not contrary to the statutes and constitutions of this state or the United States. Locomotives and railroads.

66th. To regulate, control and prohibit the location, laying, use and management of telegraph, telephone and electric light and power wires and poles. Telegraph wires.

67th. To establish and regulate boards of health. Boards of health.

68th. To make, ordain and pass ordinances and by-laws for the police, and to enforce such rules Ordinances.

for the observance of laws, ordinances and regulations of the city watch house or county jail of Winnebago county, or both, in the discretion of the magistrate or court before whom conviction may be had: provided, that such fine shall not exceed one hundred dollars ($100), and such imprisonment shall not exceed three months.

Election districts.

69th. To divide any ward into two election districts for the purpose of holding general elections, other than city elections, the officers thereof to be appointed and selected, and the voters thereof registered as provided by law. To abolish, change or alter any such election district, and make such provisions or regulations (not changing or conflicting with any general law) necessary to carry out the provisions hereof.

When ordinances to take effect.

SECTION 4. Every ordinance or resolution of the common council (excepting those prescribing rules for their government and the appointment of officers) shall, before it takes effect, be presented to the mayor by the clerk. The mayor, if he approves of it, shall sign it, in which case it shall take effect immediately thereafter, unless otherwise provided for in the resolution or ordinance. If he does not approve of it, he shall return it with his objections in writing, to the city clerk, within five days after he shall have received it. The common council may then proceed to reconsider the same, and, if two-thirds of all the members elect shall agree to pass the same, it shall take effect as law. In every such case the vote shall be taken by ayes and noes, and be entered upon the records of the proceedings. If such ordinance or resolution shall not have been returned by the mayor within five days after he shall have received it, it shall take effect in like manner as if he had signed it. Before any such ordinances or resolutions shall be in force, they shall be published in the official paper of said city, and, together with the affidavit of publication, shall be recorded by the city clerk in books provided for that purpose. The time and manner of publication may be proven by the original affidavit of publication or by the recorded copy thereof, or in case of the loss or destruction of either the original affidavit or ordinance or resolution or the book or books containing a record of the same, the contents of the affidavit, ordinance or resolution as well as the fact of recording the same or

any of them, or any matter or thing therein contained, may be proven by parole testimony.

When to be deemed nuisances.

SECTION 5. The powers conferred upon the said common council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, proceedings or prosecutions in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns and houses and places where spirituous, vinous or fermented liquors are sold without the license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Settlement with city officers.

SECTION 6. The common council shall examine, audit and adjust the accounts of city and ward officers or agents at such times as they shall deem proper, and also at the end of each year, and before the time for which the officers are elected or appointed shall have expired, and the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the order of said council in discharge of said duties, in pursuance of said section, or shall neglect or refuse to render his accounts, or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and institute proceedings at law, against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties; and the common council shall cause to be made a full record of all such settlements and adjustments.

Council may provide for labor by prisoners.

SECTION 7. The common council shall have authority by ordinance to provide that any and all persons who shall be found guilty of the violation of any city ordinance for drunkenness, or for being an inmate or frequenter of a house of ill-fame, or for disorderly conduct, and shall neglect or omit to pay any fine or costs imposed therefor, that such person or persons shall work out such fine and costs upon the public streets of said city, or shall do any other work that said city may have

or wish to be done, and the compensation therefor, to be fixed by the council, shall be deducted from such fine and costs thereon, and the council may pass the necessary ordinance to carry out the provisions of this section.

Council may issue bonds to build bridges.

SECTION 8. The common council shall have authority to build bridges over the Fox river, in the city, or to make the necessary repairs on any of the bridges in the city over Fox river, and to provide for the payment of the same. The council, instead of collecting the whole amount in the next tax roll thereafter, may, in its discretion, issue the bonds of the city for a part or the whole amount, payable in five, or less, equal annual payments, the same not to draw to exceed five per cent. interest per annum; provided, that not more than ten thousand dollars ($10,000) shall be made payable or collected by tax in any one year. To make any such appropriation shall require the affirmative vote of a majority of all the aldermen elect.

Water works.

SECTION 9. The common council of the city of Oshkosh, may, by ordinance, adopt by majority vote of the members of said common council, empower, authorize and permit any corporation, association or individual to erect, construct, complete and maintain in the city, water works, and to grant to any individual, association or corporation, the privilege to run through and lay water pipes under any street or alley or above ground, and to erect hydrants and build such buildings and use such machinery as will be necessary to construct such water works; and the common council of said city may contract with such individual, association or corporation to supply said city with water, and rent or purchase hydrants, and the expense thereof be charged to such wards or districts wherein such hydrants are erected; and the aldermen, or a majority thereof of each ward may divide the wards which they respectively represent into one or more water districts, with power to alter the boundaries thereof or redistrict the same; or the common council may build, erect, construct, complete and maintain in the city, water works, with or without steam engines to run the same, may set the engines in the Fox River, Lake Butte des Morts or Lake Winnebago, and run pipes therefrom through the city under ground and above ground; or may build

water works by sinking artesian wells and fountains and making reservoirs, and may purchase patented rights for patent water works, or purchase water works erected by any individual, corporation or association; may rent the use of the water to residents, and provide for the collection of the rents, impose fines and penalties for the care and protection of the water and water works, do all the common council may deem necessary to be done in the premises, to supply the city and the residents thereof with water by ordinance; provided, however, that no such ordinance to build or purchase water works shall be valid and binding, until the same shall be submitted to the vote of the qualified electors of said city, which may be done at a regular or special election called for that purpose by a majority vote of the common council. At least two weeks notice thereof shall be given and if a majority of the qualified electors voting shall vote in favor of such ordinance, to build or purchase water works, the common council may raise the whole or part of the money required by the ordinance to build or purchase the water works, by special tax, or by inserting the same in the annual tax roll, or may raise the whole or part thereof by issuing the bonds of the city therefor and selling the same, which bonds may be made payable in thirty years (or less number of years) in equal annual payments, not to draw to exceed five per cent. interest, payable annually.

Water tax.

SECTION 10. There shall be levied and assessed upon, and collected from all the taxable property in such district, a tax or assessment to pay all the cost and expense for water used, and for the rental of hydrants by the city, in such ward or district as aforesaid; the same shall be collected therefrom as other taxes and assessments are collected.

North Side water works.

SECTION 11. In case an ordinance is submitted to the qualified voters of the whole city, at the election herein provided, and in case a majority of the qualified electors voting shall not vote in favor of such ordinance, to build or purchase water works, the common council may, by ordinance, empower, authorize and permit any corporation, association or individual, to erect, construct, complete and maintain, in that part of the city lying and being north of the Fox river, water works, and to grant to any individual, associa-

tion or corporation the privilege to run through and lay water pipes under any street or alley, or above ground, and to erect hydrants and build such buildings and use such machinery as will be necessary to construct such water works in that part of the city lying and being north of the Fox river; and the common council of said city may contract with such individual, association or corporation to supply said city with water, and rent or purchase hydrants, and the expense thereof be charged to such wards or districts wherein such hydrants are erected; and the aldermen, or a majority thereof, of each ward in that part of the city lying and being on the north side of the Fox river, may divide the wards which they respectively represent into one or more water districts, with power to alter the boundaries thereof or redistrict the same; or the common council may build, erect, construct, complete and maintain, in that portion of the city lying and being north of the Fox river, water works, with or without steam engines to run the same, may set the engines in the Fox river, Lake Butte des Morts or Lake Winnebago, and run pipes therefrom through that portion of the city lying and being north of the Fox river, underground and above ground, or may build water works in that portion of the city lying and being north of the Fox river, by sinking artesian wells and fountains, and making reservoirs, and may purchase patented rights for patent water works, or purchase water works erected by any individual, corporation or association, in that portion of said city; may rent the use of the water to residents, and provide for the collection of the rents, impose fines and penalties for the care and protection of the water and water works; do all the common council may deem necessary to be done in the premises to supply that part of the city lying north of the Fox river, and the residents thereof with water, by ordinance; provided, however, that no such ordinance to build or purchase water works shall be valid or binding until the same shall be submitted to the vote of the qualified electors of said city residing in that part of said city lying and being north of the Fox river, which may be done at a regular or special election called for that purpose, by a majority vote of the common council. At least two weeks' notice thereof shall be given, and if a ma-

jority of the qualified electors residing upon the north side of said Fox river shall vote in favor of such ordinance, the common council may raise the whole or part of the money required by the ordinance to build or purchase the water works, by special tax upon all the taxable property of that portion of said city lying north of said Fox river, or by inserting the same in the annual tax roll, to be collected from and upon the taxable property of that portion of the city lying and being north of said Fox river, or may raise the whole or part thereof by issuing the bonds of the city of Oshkosh therefor, and selling the same, which bonds may be made payable in thirty or less number of years, and shall not draw to exceed five per cent. interest, payable annually, and which shall only be a lien and a charge upon that portion of the city lying and being north of the Fox river, and which shall be paid by, from and out of the taxable property lying and being north of the said Fox river.

Water tax.

SECTION 12. There shall be levied and assessed upon, and collected from all the taxable property in that portion of the city lying and being north of the Fox river, a tax or assessment to pay all the cost and expense for water used, and for the rental of hydrants in such portion of said city; the same shall be collected therefrom as other taxes and assessments are collected.

To pass ordinances for water works.

SECTION 13. It shall be the duty of the common council, and it is hereby empowered, from time to time, to pass such ordinances as may be deemed necessary or expedient for the management and protection of said water works, and regulating and controlling the supply and use of water therefrom; and the council is hereby empowered, when it shall deem it for the best interests of the city, to appoint a board of three water commissioners, to take the entire charge and management of said water works, to appoint a superintendent and other employes and fix their compensation, and to supervise and control the supply and distribution of water throughout the city, and generally to discharge the duties imposed upon the common council by this chapter, under the general control and supervision of said council.

City hall.

SECTION 14. The common council shall have authority to construct and build a city hall in this

city and provide for the payment of the cost of building the same, and may raise the whole or part of the money to pay for building the same, by special tax, or by inserting the same in the annual tax roll, or may raise the whole or part thereof by issuing the bonds of the city therefor and selling the same, which bonds may be made payable in twenty years (or less number of years) in equal annual payments, not to draw to exceed five per cent. interest, payable annually.

Regulation of sales at auction.

SECTION 15. The common council of the city of Oshkosh is hereby authorized and empowered, by ordinance, to regulate the sale of any goods, wares, merchandise, or any other property, at auction, in said city of Oshkosh, and may prohibit the sale thereof at auction, within the limits of said city, by any person without having obtained a license therefor; and may also require any auctioneer, so licensed to sell, to make reports, verified by him, in manner and form, and at such time or times, or upon the demand of any officer or employe of said city, as shall be designated and provided by any ordinance of said city, and may require such auctioneer, so licensed, to pay for such license the fee hereinafter prescribed, and also the per centum upon all gross sales by him made, as hereinafter prescribed, viz.: For each license to any inhabitant and resident of said city, a fee not to exceed one hundred dollars ($100), for one year; for a license to any non-resident of said city, a fee not to exceed one hundred and fifty dollars ($150) per year, and may exact and require such auctioneer to pay on the gross amount of all sales by him made, a sum not exceeding two per centum, except as hereinafter otherwise provided, upon all sales made by a non-resident auctioneer, of the following class, or described articles, goods, wares, merchandise and property, viz.: clothing, wearing apparel, hats, caps, mittens, gloves, cloths, groceries, dry goods, books, stationery, pictures, picture frames, furniture and jewelry, millinery goods, boots, shoes, drugs, medicines, paints, oils, iron, tin, steel, sheet iron, stoves, hardware of every kind, and including all goods, wares, merchandise and other property usually sold or kept for sale in clothing stores, hat and cap and fur stores, drug stores, paint and oil stores, grocery stores, dry goods stores, millinery stores or shops, boot and shoe stores, iron, tin or hardware stores, or shops, may exact and charge

upon gross sales, a sum not to exceed ten per cent. on a dollar, upon the gross sales; and upon the same articles, goods, wares and merchandise sold by a licensed resident auctioneer, and which is not the *bona fide* property of such licensed resident auctioneer, or of a *bona fide* inhabitant and resident of said city, may be exacted and charged a sum not exceeding ten per centum upon the gross amount of sales; and that any property belonging to a non-resident, which may be sold or transferred to any resident auctioneer, or an inhabitant and resident of said city for the purpose of in any wise avoiding or evading the provisions of any such ordinance, or in which any such non-resident shall retain any interest, shall be liable to pay such ten per centum on a dollar on all gross sales, and may require such licensed auctioneer to give a bond to said city, in such penal sum, with a surety or sureties, prescribing the qualifications thereof, and requiring the same to qualify, and conditioned for the faithful compliance with the provisions of such ordinance, with such other conditions as may be deemed necessary for the faithful enforcement of such ordinance. No license shall be issued for a longer time than one year, and may provide that no license shall be issued for less than one year. When the term "resident" or the term "inhabitant resident" is used herein, it shall be and mean and include any person who is, and has been for three months immediately preceding, an actual, *bona fide* inhabitant and resident of said city; the term "non-resident" shall mean and include any person who has not been an actual, *bona fide* inhabitant or resident said city for three months immediately preceding of the issuing of any such license, or the sale of any goods, wares, or merchandise or property, at auction. The term "licensed resident auctioneer," or "resident auctioneer," shall mean and include any person licensed, who has been an actual, *bona fide* inhabitant and resident of said city for three months immediately preceding the granting of his license. The term "non-resident auctioneer" shall mean and include any person to whom a license is granted, who has not been an actual, *bona fide* inhabitant and resident of said city for three months immediately preceding the issuing or granting to him of a license; and may provide that in any license issued, that it may be designated

Licensed auctioneers to give bonds.

whether the person is a resident or non-resident auctioneer, and that the person accepting the same shall be bound and estopped by such license, and shall have only the rights and privileges of the class of auctioneers herein named or designated; provided, however, that nothing in this act shall prohibit or affect, in any manner, sales at auction in the cases specified by chapter 68, of the revised statutes, for the year 1878, entitled "Auctions and Auctioneers." All license fees and per centum on sales to be paid to city treasurer, for the benefit of the city.

CHAPTER VII.

FINANCES.

Custody of moneys.

SECTION 1. All moneys, credits and demands belonging to the city and wards of Oshkosh shall be deposited with and kept by the city treasurer, and shall, except the school fund, be under the control of the common council, and shall be drawn out only upon the order of the mayor and city clerk, duly authorized by a vote of the common council; provided, that the school fund shall be drawn out as provided by the provisions of this act. All orders drawn upon the treasury may be payable generally out of any funds in the treasury belonging to the city except the school fund; and all orders drawn upon the treasury of the city shall be made payable to the person in whose favor they may be drawn, or bearer. All such orders shall be received in payment of any city taxes levied and assessed, except for school purposes.

Limit of taxes to be levied.

SECTION 2. The common council of said city may levy annually upon the taxable property of said city to defray the current expenses of said city as follows: For ward purposes, a tax not exceeding seven (7) mills on each dollar of taxable property of the respective wards as shown by the assessment roll of the year; for sewerage purposes, a tax not exceeding three (3) mills on each dollar of taxable property of the respective wards as shown by the assessment roll of the year; for cemetery purposes, a tax not exceeding one (1) mill on each dollar of taxable property of said city as shown by the assessment roll of the year; for park and boulevard purposes, a tax not exceeding one (1) mill on each dollar of taxable property of said city

as shown by the assessment roll of the year; and for all other city purposes, except for schools, a tax not exceeding ten (10) mills on each dollar of taxable property of said city as shown by the assessment roll of the year.

School taxes.

SECTION 3. The common council shall cause to be levied annually upon the taxable property of said city, such sum or sums of money as the board of education shall determine, and certify as necessary to be raised for defraying the current expenses of the public schools of said city; provided, that the sum or sums so levied in any one year shall not exceed the sum of two thousand dollars ($2,000) over and above the amount levied in said city for the current expenses of the previous year.

Tax for purchase and repair of school buildings.

SECTION 4. The common council shall cause to be levied annually upon the taxable property of said city, such sum or sums of money as the board of education shall determine, and certify to be necessary for the purchase of school houses, sites, or for the building or repairing of school houses, and that the amount so levied in any one year shall not exceed the sum of eight thousand dollars ($8,000).

School fund.

SECTION 5. All moneys levied and raised for the purpose of defraying the current expenses of the public schools, or for the purchase of sites for school houses, for the building of the same, shall, after they are so collected constitute one fund, subject to the control of the board of education, for school purposes in said city. All moneys raised by this act for school purposes shall be paid to the city treasurer, who shall be accountable therefor in the same manner as for other moneys of said city.

School fund to be placed to credit of board of education.

SECTION 6. All moneys coming into the hands of the city treasurer by any provisions of law, by gift or otherwise, for the use and benefit of the public schools of said city, shall be placed by him to the credit of the board of education of said city; and such moneys shall not be paid out by him, except upon an order drawn upon him by the president of said board and countersigned by the clerk thereof; and no such order shall be drawn except by resolution of said board, which order shall be made payable to the person or persons entitled to receive the same.

Majority of council to appropriate money.

SECTION 7. No debt shall be contracted against the city, or certificate of indebtedness be drawn

upon the city treasury, unless the same shall be authorized by a majority of all the members elect of the common council, and a vote authorizing the same shall be entered by ayes and nayes upon the journal of the common council, and no money shall be appropriated or debt contracted for any purpose whatever, except such as is expressly authorized by this act.

Treasurer to make report.

SECTION 8. Correct accounts of all moneys, credits and demands received into the treasury, all moneys paid upon orders for expenditures, or for the payment of any debt, and of the transactions in the office pertaining to the city finances, debts and credits shall be kept in books by the city treasurer, and at the termination of his office, and at such other times as the common council shall require, the treasurer shall make a correct report in detail of all receipts and expenditures, with proper vouchers, and the same may be published in the official paper and recorded with the city clerk.

Forfeitures, etc., to be paid into city treasury.

SECTION 9. All forfeitures and expenditures accruing to the city for any violation of this act, or of any of the ordinances, by-laws, rules and regulations of the city, and all moneys received for licenses, shall be paid into the city treasury, and become a part of the general fund, except as otherwise provided by this act.

Accounts to be verified.

SECTION 10. Any account or demand against the city, before acted upon or paid, the council may require the same to be verified by affidavit, except salaries and amounts previously fixed or determined by law, and any person who shall falsely swear to any such account or demand, shall be deemed guilty of perjury, and shall be punished according to law.

Insurance companies to pay percentage.

SECTION 11. All corporations, companies and associations not incorporated under the laws of this state, engaged in this city in effecting fire insurance, shall pay to the city treasurer at the rate of two per cent. upon the amount of all premiums which shall have been received or shall have been agreed to be paid for any insurance effected or agreed to be effected on any property within the city limits, by or with such corporations, companies or associations respectively. Such amount shall be paid for every six months preceding the first days of January and July of each year.

Agent of insurance company to make statement.

SECTION 12. Every person who shall act as agent or otherwise, for or on behalf of any such corporation, company or association, on or before the first day of January in each year, shall render to the clerk of said city, a full, true and just account, verified by oath, of the premiums which, during the half year (ending on the first day of January and July preceding such report) shall have been received by him, or any other person for him, or shall have been agreed to be paid for or in behalf of any such corporation, company or association.

City clerk to assess percentage.

SECTION 13. Upon the report of any such agent or person mentioned in the preceding section, the city clerk shall immediately assess and adjust the whole amount of the percentage chargeable against such corporation, company or association, and within five days thereafter such agent or person shall pay into the treasury of said city the amount so assessed and adjusted.

Penalty for violation.

SECTION 14. If any agent representing any such corporation, company or association, against which insurance rates are chargeable by virtue of this act, shall refuse to make report, or pay the rates prescribed by this chapter, at the time or times herein mentioned, such corporation, company or association so in default, and the agent thereof, shall be deprived from doing or transacting any business of insurance in said city until the said requisition shall have been complied with. Any person or agent violating any of the provisions of this chapter shall be liable to a penalty of not less than ten (10) and not more than one hundred (100) dollars in the discretion of the court before whom conviction is had; said percentage may also be recovered of said corporation, company or association or its agent, by action in the name, and for the use of said city, as for money had and received.

Insurance percentage to go to fire department.

SECTION 15. The insurance percentage so received, as provided by this chapter, shall be appropriated for the benefit of the fire department of said city.

Aldermen to certify to ward indebtedness.

SECTION 16. The alderman of any ward shall certify to the common council any debt contracted by such ward for the current year, and thereupon the said council shall (if such debt be a proper claim against such ward) allow such debt, and direct the mayor and clerk to issue to the proper person

orders of the city to the amount of the debt allowed; provided that said council shall in no case allow any such debt, if such allowance will cause the whole amount of orders so issued to meet the indebtedness of such ward, to exceed the amount of tax which may be levied and collected under the provisions of this chapter, to meet the expenses of the current year, assuming as a basis the tax list of such year then made out, and if not, then the tax list of the preceding year.

Limit of ward indebtedness.

SECTION 17. No alderman of any ward shall contract debts against such ward in any one year to an amount greater than the amount of tax which, under the provisions of this chapter may be levied in such ward to meet the current expenses of the year, and if any alderman shall so contract debts to a greater amount than such tax, neither such ward nor the city shall be liable for the same, but the alderman so contracting shall be liable therefor as if the debt had been originally contracted by such alderman personally; provided, that no alderman shall be held liable as aforesaid, without proof of his assent as alderman to the contracting of the debt or liability of the ward.

No debts not authorized by council to be contracted.

SECTION 18. No officer of the city or member of the board of education, or any other person, shall have power, and each and every person is hereby prohibited from making any purchase or contracting any debt on the part of the city, unless specially authorized by the common council or board of education so to do; and no account, claim or demand against the city shall be audited, allowed or paid by the common council or board of education, unless the same is duly authorized by a vote thereof.

Aldermen personally liable for debts contracted.

SECTION 19. In case any alderman shall purposely vote for any appropriation or for the payment or expenditure of any money not authorized by this act, or in case the common council shall authorize any expenditure for any purpose not authorized in this act, or exceeding the amount they are authorized to raise for any purpose in such year, the alderman voting for any such appropriation or expenditure, or for the contracting of any such debt or debts, shall be personally liable to the city of Oshkosh in an action in a court of competent jurisdiction, for any damage the

city may sustain in consequence of such illegal payment, expenditure or appropriation.

Amount to be specified in appropriations.

SECTION 20. All resolutions adopted by the common council or the board of education, authorizing the expenditure of money, shall appropriately specify the amount to be expended, the purpose for which the same is to be expended, and no extra or additional compensation shall be allowed or paid on any contract or to any officer, person or persons, for any services or work done, or materials furnished to or for the city.

Council may borrow money.

SECTION 21. The common council, for city or ward purposes, to pay current expenses, or to pay any debt past due, may borrow from time to time such sum or sums of money as it may deem advisable; provided, that it shall not pay to exceed the legal rate of interest, and that the same shall not be payable at a later date than the first day of February next after the date when such loan or loans are made; proper evidence thereof by way of note or otherwise, may be given, which shall be signed by the mayor or the acting mayor and city clerk, under the seal of the city. The amount so borrowed shall be inserted in the tax roll next after the same is borrowed with other taxes.

Cemetery bond.

SECTION 22. The city of Oshkosh being indebted in the sum of five thousand dollars ($5,000) for cemetery purposes, is hereby authorized and empowered to issue its negotiable bonds in the sum of five thousand dollars ($5,000) for the purpose of paying such indebtedness. Such bonds shall be of the denomination of one thousand dollars ($1,000) each, shall be signed by the mayor and clerk of said city, and have affixed thereto the seal of said city, and shall be known as and called cemetery bonds; and each shall recite that it is issued pursuant to the power conferred on the city by its charter. Such bonds shall draw interest not to exceed the rate of five per cent. per annum, payable annually, and shall mature and become due at such time or times as the common council of said city of Oshkosh shall direct; provided, however, that said bonds shall all be payable within twenty years from the time when the indebtedness accrued for the payment of which said bonds are to be issued.

Interest.

Tax levy

SECTION 23. During each year, and until such bonds, together with the interest which shall ac-

crue thereon, shall be fully paid, the city of Oshkosh shall annually raise, by tax upon the taxable property of said city, a sum of money sufficient to pay the annual interest that may accrue and become due upon such bonds, together with any sum or sums that may become due for the principal or any part thereof, which said sum or sums shall be by the city clerk of said city inserted each year in the tax roll of said city, and shall be collected annually as other taxes are collected, and when so collected shall be applied to the payment of the principal and interest of said bonds, and for no other purpose.

CHAPTER VIII.

ASSESSMENT AND COLLECTION OF TAXES.

Duty of assessors.

SECTION 1. The assessors shall assess all taxable property in said city, and shall make out the annual assessment roll for said city, in accordance with the general laws of the state relating to the assessment of property and the duties of assessors. Immediately after such assessment roll is equalized, the same shall be verified by the oath of each of said assessors as required by law, and the said assessment roll, or a copy thereof, shall be deposited with the city clerk. All taxes shall be collected in the manner prescribed by the laws of this state.

Assessment of property for taxation.

SECTION 2. If the board of assessors, when making their assessment, shall discover any tract, piece or parcel of land in said city was omitted in the assessment roll of the preceding year, and was then liable to taxation, they shall, in addition to the assessment of such tract, piece or parcel of land, for that year assess the same separately for such preceding year that it shall have been so omitted, at the fair and just value thereof, when the same should have been so assessed in such preceding year, noting distinctly the year when such omission occurred, and that the same was omitted, and the reason, if any, why the same was omitted, and such assessment shall have the same force and effect as it would have had if made in the year the same was omitted and taxes to the amount that should have been levied and paid in the year such omission occurred, shall be levied and collected thereon in like manner, and together with the taxes of the

year in which such assessment is made, and such lands shall be subject to taxes so omitted to be assessed in whosesoever hands they may come. And if the board of assessors when making any assessment shall discover that through the fraud, accident, mistake or negligence of any person or persons, officer or officers, in making out, copying or transcribing any tax, tax roll or assessment roll for the preceding year, that any tract, piece or parcel of land has been inserted in such tax or assessment roll for the preceding year at a less valuation than fixed upon by the board of assessors, or board of review, for such preceding year, or that the amount or value of the aggregate valuation of personal property liable to taxation of any person or persons, corporation or corporations, as fixed by the board of assessors or board of review, for the next preceding year, has been altered or changed to a less amount or value than the amount or value as fixed by the board of assessors or board of review for such preceding year, by or on account of the fraud, accident, mistake or negligence of any person or persons, officer or officers, in making out, copying or transcribing any tax, tax roll or assessment roll of such preceding year. That the board of assessors shall deduct the value of such piece, tract or parcel of land, or the amount or value of such personal property as it appears from the assessment roll or tax roll of such preceding year, from the true amount or value as fixed by the board of assessors or board of review for such preceding year, and shall in addition to the assessment of such tract, piece or parcel of land for that year, or in addition to the assessment to or of such person or persons, corporation or corporations, assess the said piece, parcel or tract of land, or such person or corporation the amount and value of the difference as so fixed the preceding year by the board of assessors or board of review, and the amount or value as it appeared on such assessment roll or the roll for such preceding year, noting distinctly in the assessment roll the year when such alteration was made, and the amount or difference caused or made by such alteration; and taxes to the amount that should have been levied and paid on the same, shall be levied and collected thereon in like manner and together with the taxes of the year in which such corrected assess-

Board to deduct value of property.

ment is made, and shall have the same force and effect. And all such lands, or pieces or parcels of land shall be subject to such taxes in whosesoever hands they may come, and all persons and corporations shall be liable to pay such taxes so assessed on such personal property, and such taxes shall be collected in the same manner as other taxes. As soon as said tax shall be levied, the common council shall cause the same to be copied in a book provided for that purpose, setting opposite to each tract of land and each person named, such sum or sums as may be levied upon such lot or against such person; the said copy shall be designated as the tax roll, and to it shall be appended a warrant signed by the mayor, and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments in said roll specified. Such tax roll before being delivered to the treasurer, shall be compared by the clerk with the assessment roll, and to it he shall append his certificate that the same has been so compared by him, and that the said assessment roll and the whole thereof has been copied with such tax roll, and when so certified shall be *prima facie* evidence that the lands and persons therein named were subject to taxation and that the assessment was just and equal.

When treasurer to collect taxes.

SECTION 3. Upon the receipt of the tax list by the treasurer, he shall proceed to collect the taxes and assessments of said city at the same time as is required by law of town treasurers to collect taxes.

Treasurer to publish notice.

SECTION 4. The city treasurer shall, upon the receipt of the tax list, publish a notice in the official paper of the city, specifying that all taxes and assessments, whether upon real or personal property in said tax list, shall be paid on or before the last day of December of said year, and that all taxes and assessments not paid by that day will be collected by the seizure and sale of the goods and chattels of the person, company or corporation charged with such taxes and assessments, and the publication of such notices shall be deemed and taken to be a demand, and failure to pay the taxes and assessments within the time limited in such notice shall be deemed a refusal to pay the same. The city treasurer shall charge no fees for collection of taxes and assessments paid to and collected by him prior to the first day of

January of each year, and shall charge and collect five per cent. upon all taxes and assessments paid to and collected by him after that date; provided, that the common council shall have power to extend the time for collecting such taxes not exceeding thirty days from the expiration of original warrant.

Delinquent tax list.

SECTION 5. In case no goods [or chattels shall be found, out of which to collect the taxes, on any lot or lots or other pieces of land or property, it shall be his duty to make out a list of all of the property and taxes remaining unpaid at the time required by law; and the list so made, with his affidavit thereto attached, stating that the taxes therein contained had not been collected, and that he had not been able to find goods and chattels out of which to collect the taxes, shall be called the "delinquent list," and it shall be his duty to deliver such delinquent list to the treasurer of the county of Winnebago, at such time as is required by law; and he shall, at the same time, pay over to the county treasurer of Winnebago county, all moneys collected by him belonging to said county, and all taxes belonging to the state of Wisconsin, in the same manner as required by law of town treasurers.

County treasurer to return money and certificates to city treasurer.

SECTION 6. It shall be the duty of the county treasurer of Winnebago county, and he is hereby required, when lots, tracts, pieces or parcels of land have been returned by said city treasurer for any general tax of the state, or for any tax or assessment authorized under the provisions of this act, immediately after the sale of said delinquent lots, tracts, pieces or parcels of land by him, to pay to said city treasurer the amount which may have been returned delinquent, belonging to said city, either in cash or in certificates of sale of said tracts, lots, pieces or parcels of land so returned as delinquent.

Informality not to affect validity of tax.

SECTION 7. All directions hereby given for the assessment of lands, and levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in any of the proceedings of any of the officers [entrusted] with the same, not affecting the substantial justice of the tax itself, shall vitiate or affect the validity of the tax so assessed.

How assessments to be carried out.

SECTION 8. In all cases, by the provisions of this act, any charge or assessment shall be carried

out on the tax roll in a separate column or columns, opposite to the lot or tract upon which the same may be a lien. The treasurer shall collect or do all other acts in regard thereto in the same manner as in the collection of other taxes.

Duty of city treasurer.

SECTION 9. The said city treasurer shall keep, in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer, from any source whatever; and the same shall be paid by him into the general fund of said city for the benefit of the city, and such books shall at all times be open to inspection by the mayor or common council or to any committee appointed by the common council; and the said city treasurer, when required by the common council, shall make a report, under oath, of all fees by him received as such city treasurer.

CHAPTER IX.

OPENING AND LAYING OUT STREETS AND ALLEYS.

Power of council to lay out streets, alleys, etc., and to take property therefor.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen or straighten or extend the same as follows: Whenever ten or more freeholders of the city shall petition the council to take certain lands for public use, for any of the purposes aforesaid, and shall specify therein with reasonable certainty, the courses and distances, metes and bounds of the land proposed to be taken, and the names and residences of the owners of such premises, so far as the same can be ascertained, and deposit with the city clerk the fees hereinafter prescribed for the expenses of ascertaining whether it is necessary to appropriate such property for such public purposes, the common council may, if they are of the opinion that the public interest demands that the request of such petition be granted, in whole or [in] part, cause notice of such application to be given by publication of a notice thereof in the official paper of the city; if there be none, then in some paper published in said city, of at least four weeks, at least once in each week; provided, however, that if the land required by the petition to be taken shall be so taken, in whole or in part, such money shall be refunded to the petitioners, and such costs shall be assessed with the dam-

ages upon the real estate benefited, as hereinafter provided.

What notice to contain.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Winnebago, for the appointment of twelve jurors to view said premises and to determine whether it will be necessary to take the same for the purpose specified in said petition.

Jury to be selected to view premises to be taken.

SECTION 3. Upon the presentation of such application, and upon the proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may lie, nor interested in said premises. The judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises, to be specified in said precept, and to make returns under their hands to the common council whether, in their judgment, it is necessary to take said premises for the purposes specified in said application.

Chief of police to serve precept.

SECTION 4. The chief of police shall serve this precept immediately on the jurors therein named, by reading the same to every one of them that can be found, and immediately after such service he shall return said precept to the judge or court commissioner who issued the same, together with the doings thereon.

Substitution of jurors.

SECTION 5. If any of the jurors so appointed cannt be found, or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner may appoint others in their places, and a memorandum of such substitution shall be indorsed on the precept.

Judge to administer oath to jurors.

SECTION 6. The said judge or court commissioner shall thereupon administer an oath to said jurors, that they are freeholders of said city and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust imposed in them, which said oath shall be filed in the office of the city clerk.

Duty of jurors.

SECTION 7. The said jurors shall, at such time

as they may agree upon, proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing by one of the jurors, and either of the jurors shall be authorized to administer the necessary oath to the witnesses. After viewing the premises in question and hearing such testimony as may be offered, the jurors shall make a report of their proceeding, which shall be signed by them respectively, and which shall state whether, in their judgment, it is necessary to take the premises in question for the public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept, or when ordered by the council. Should the jurors report that it is necessary to take said premises the common council shall enter an order among its proceedings confirming said report, and directing the same jurors, within twenty days thereafter, or such further time as shall be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of said property proposed to be taken, and also what lands or premises will be benefited by such taking, and to assess and return within the time limited such damages and benefits to the common council; and after the jurors shall have made their reports as to the taking of any lands or premises under this act, and the same shall have been confirmed, the judge or court commissioner who may have issued the precept, as provided in section 3 of this chapter, shall have power to appoint new jurors in place of any who shall neglect or refuse to serve; and the jurors before entering on the discharge of their duties in the premises shall severally take an oath before some competent officer that they are freeholders of said city and are not interested in the premises to be taken, and that they will faithfully and impartially discharge the trust imposed in them, which oath shall be filed in the office of the city clerk, and the judge or court commissioner who may have issued the precept as provided in this chapter shall have power to issue a warrant or attachment against any juryman who shall neglect or refuse to serve, wherein the city of Oshkosh shall be nominal plaintiff and such juryman or jurymen defendants, and com-

pel the attendance of such juryman and punish him for contempt in the same manner as jurymen are punished by law in the courts of record for contempt, and also the said judge or court commissioner shall have power to issue subpœnas for witnesses to attend before such jury, and issue attachment and punish for contempt in case of neglect or refusal of witness to appear and testify before the jury, in the same manner as in case of neglect and refusal of jurymen, and all the costs and witness fees are to be added in with the expense of the jury.

Further duties of jurors.

SECTION 8. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such other premises as in their judgment will be injured or benefited thereby, and receive and hear such testimony as they may deem necessary in the premises, and thereupon determine and apportion and award to the owner or owners the value of the real estate proposed to be appropriated, and the injury to them respectively as damages, after making due allowance, which such owners respectively, may derive from such improvement. If there are any buildings in part or whole upon the land proposed to be appropriated, the jury shall assess separately the value thereof, less what its value will be if removed from the land appropriated, and of the removal which the owner will necessarily be obliged to make of the same; and if there is any interest in such property as lessee or otherwise less than an estate in fee simple and not in the nature of a lien by mortgage or judgment, mechanic's lien, or a lien for taxes or assessments, the jurors shall estimate separately the damage which the owner or owners of such interest shall sustain thereby, and in estimating the damage sustained by the owner, the same shall be deducted therefrom. In awarding damages as aforesaid, the jurors shall not be compelled to award the same to any person or company by name, but the same may be awarded to the owner or owners of the property appropriated or injured, or to the party or parties interested therein.

When damages greater than benefits, and *vice versa*.

SECTION 9. If the damages to any person be greater than the benefit named, or the benefits be greater than the damages, in either case the jurors shall strike the balance, and carry the difference forward to another column, so that the assess-

ment will show what amount is to be received or paid by such owner or owners respectively, and the difference only shall in any case be collectible of them or payable to them.

Jury to assess damages.

SECTION 10. Having ascertained the damages and expenses of the said improvement as aforesaid, the jurors shall thereupon apportion and assess the same, together with the costs of the proceedings, upon the real estate by them deemed benefited, in proportion to the benefit resulting thereto from the proposed improvement, as nearly as may be, and shall describe the real estate upon which these assessments may be made. The award of the said jurors shall be signed by them, and returned, together with the testimony taken, and the precept, to the common council, within the time limited in such precept. The costs of the proceedings shall be estimated as follows: The jurors shall be entitled to one dollar and fifty cents ($1.50) each for each day's attendance; the judge or commissioner in full for his services in any case, four dollars ($4.00); the chief of police for all his services in any one case, four dollars ($4.00); the city clerk for the same, three dollars ($3.00); the clerk of the circuit court for filing and recording the report, two dollars ($2.00). The printer's fees for publication of the several notices required by this act, shall be compensated according to the legal rates.

Costs and fees.

Duty of city clerk.

SECTION 11. The city clerk shall, by order of the council, make and deposit with the clerk of the circuit court of Winnebago county, a duly certified copy of said award, and the said clerk of the circuit court shall file and carefully preserve the same in his office, and at the expense of said city shall record the same. The award, and the certified copy of the said award so filed, shall be *prima facie* evidence of the regularity of all the proceedings, from the presentation of the petition to the filing of said award inclusive. If no appeal is taken from either damages or benefit assessed in said award, the city clerk shall add the benefit so assessed and charged in said award to the lot, lots or parcels of land, to the taxes chargeable to such lot or lots in the annual tax roll issued next after the filing of a copy of such award with the clerk of the circuit court, and the same shall be a lien thereon, and collected as other taxes.

SECTION 12. Any person interested in any prop-

erty taken, or upon which any benefits are assessed, may appeal to the circuit court of Winnebago county, Wisconsin, from damages awarded. Any person interested in any real estate, upon which any such benefits, or said damages or costs are assessed, may appeal to the same court from such assessment of benefits, and also from such damages awarded; and if he appeals from both, he must take it in one appeal; such appeal must be taken within ten days from the date of the filing of a copy of such award of the jurors with the clerk of the circuit court, as heretofore provided, by serving a notice upon the city clerk, and filing the same with the clerk of said circuit court, which notice shall state from what such appeal is taken, and shall give and file with the clerk of said court, an undertaking, signed by one or more sureties, to be approved by the clerk of said court, in the sum of five hundred dollars ($500), conditioned to pay all costs which shall be awarded against him on such appeal. Such appeal shall be tried as other issues of fact, by jury, unless a jury is waived. An appeal from any damages for the appropriation of property, or any interest therein, shall take up not only the question as to such damages appealed, but also shall operate as an appeal from all benefits assessed against any property, and shall be tried *de novo*, except as to any damages for any interest in any property which has not been appealed from. An appeal from any benefit assessed against any property, shall take up all benefits assessed against any property, and shall be tried *de novo* as to the question of benefits. If there is an appeal from damages, and also an appeal from the benefits, by one or more parties, the appeal from the damages only shall be tried, and if tried and determined, the appeal from benefits shall be regarded as merged therein. If there shall be several appeals from benefits, they, by order of circuit court, or the judge thereof, at the term, or in vacation, without notice, shall be merged in one suit, in which all such appellants shall be plaintiffs; when there are several appeals from damages, the same disposition shall be made thereof. If there are any damages awarded that have not been appealed from, then, on such new trial, the same shall be regarded as adjudicated and assessed *de novo* upon property found to be benefited, as other damages found

Appeal to circuit court.

How appeal to be tried.

How appeal to be merged.

which were appealed from. All parties interested shall be entitled to be heard on any such appeal. If any parties interested claim that other lots or property upon which none of such benefits were assessed, should be assessed with a portion of such benefits, he may, at least ten days before such trial, notify the owner or parties interested therein of such claim, and require him to be present on such trial, and such party so notified shall be bound by the judgments in such case; if, on such trial *de novo*, any property is assessed with benefits which was not assessed by the jury (whose award was appealed from) the owner or party interested, if not so notified, shall be entitled at any time within twenty days after the entry of judgment, to a new trial, which the court in term, or the judge thereof in vacation, may grant upon due notice to all the parties who have appeared in any such suit by attorney, and when a new trial is so granted the same shall stand for trial upon the question of benefits only; the damages shall stand as adjudicated, and the jury on such new trial shall proceed to assess the same with costs, as herein provided, upon the lots and property which they find benefited, and in proportion as they may find the same benefited; provided they shall not assess any such benefits upon any lots and property upon which no benefits were assessed upon the last trial thereof. Upon an appeal from damages, costs shall be awarded as follows: If the appellant's damages are increased ten per cent., he shall recover costs; if not, then defendant shall. The following is the amount of the costs and disbursements in full which the party entitled to recover costs shall recover: If the damages found are five hundred dollars ($500) or less, thirty dollars ($30); upwards of five hundred dollars ($500), fifty dollars ($50); and if there are different appeals from damages, costs shall be awarded as above to or against the respective appellants as they may be entitled to or liable for, and in the entry of judgment for costs, the same shall be entered for or against the appellant as of separate appeals, but the same shall be in one judgment. In an appeal from benefits in any case in which there is also an appeal from damages which shall be tried and judgment entered, each party shall pay their own costs, but in all appeals from benefits in which the question of

Rate of costs.

benefits only is tried, if any appellants shall diminish the benefits for which his interest in any property is assessed, he shall be entitled to costs, if not, he shall be liable for costs; a party entitled to recover costs in such cases, shall recover fifteen dollars ($15) and no more, to be entered in the judgment for and against the parties respectively as aforesaid, as in case of judgment for damages, but only one bill of costs in any one case tried shall be recovered against the defendant or by the defendant against appellant or any one of them; if appellant is entitled to recover costs, the amount thereof shall be assessed by the jury on the lots and property found to be benefited, the same as damages; and if an appeal is taken from any judgment or order to the supreme court, and a judgment for costs is rendered against the defendant, the same shall be assessed in like manner as other costs on the property benefited. In no case shall the city of Oshkosh be liable for costs. In all such suits the city of Oshkosh nominally shall be defendant. Either party to an appeal case under this chapter may appeal from the award and judgment therein in the circuit court to the supreme court, within twenty days from the date of the award of judgment on appeal therein, in the same manner as appeals are taken from the circuit court to the supreme court. If no appeal is taken within twenty days, the award found and made therein of damages, or of the assessment of benefits or both, shall be final. From any final award in such cases, the clerk of the circuit court shall make a certified copy of such final award at the expense of the city, on demand of the city clerk, and the fees of the clerk of the circuit court for such copy shall be ten cents per folio, and upon and from such copy of the final award, the city clerk shall enter in the city tax roll of the city, and against property assessed for benefits, the amounts so charged and assessed upon the lots and lands described in the award, in the same manner as in case of no appeal from the award.

By whom payment for costs to be made.

When an appeal is taken within 20 days.

SECTION 13. The land required to be taken shall be considered appropriated for such purposes, whenever the time to appeal from such assessment of benefits or award of damages shall have expired, or the appeal or appeals taken therefrom as heretofore provided, shall have been determined, and such damages shall have been paid, the same

When land required to be considered appropriated.

shall be considered as paid when each and all the person or persons entitled to receive such damages shall receive the same or any part thereof which he or they are entitled to receive, or when the same shall have been paid to the clerk of the circuit court of Winnebago county, Wisconsin: provided, that no portion of any damage for any building shall be paid until such building shall be removed from the land appropriated or proposed to be appropriated, and in case the owner or owners, or parties interested in any such building shall fail to remove such building when the city is entitled to have the same removed, after ten days' notice to remove the same is served personally on such owner or parties interested therein, or shall have been posted upon such building ten days before the same is required to be removed, the city may remove the same, and all the costs and expenses which the city shall be subjected to in removing such building, shall be deducted from and paid out of such damage, awarded on and for such building or buildings; if there are any liens upon such property appropriated or any part thereof by way of mortgages, judgments, mechanics' liens or taxes, the city shall pay the damages awarded for the appropriation of the property upon which there are such liens, to the clerk of such court; when such damages shall be paid to the clerk of the circuit court, he shall give his official receipt therefor, and the said money shall be paid to such person or persons whom the said court adjudicate or determine are entitled to the same. Any person or persons may pay all such damages and costs awarded, and shall thereby become the assignee of all benefits assessed to pay such costs or benefits. Before any of such damages are paid, the common council may order all such proceedings to be abandoned and stopped.

When land taken, contracts, etc., to cease.

SECTION 14. When the whole of any lot, tract of land, or other premises, under lease, or other contract, shall be taken by virtue of this act, all the covenants, contracts, or engagements, between landlord and tenant, or any other contracting parties, touching the same, or any part thereof, shall, upon the filing in the office of the clerk of the circuit court of the copy of said award, respectively cease, and be absolutely discharged.

When but part of land is taken.

SECTION 15. When only a part of a lot or tract of land, or other premises, so under lease, or other

contract, shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the filing in the office of the clerk of the circuit court of the copy of said award, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved, payable, and to be paid for, or in respect to the same, shall be so proportioned, so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for, or in respect to the same.

When owner is an infant or under legal disability.

SECTION 16. When any known owner of lands or tenements, affected by any proceedings under this act, shall be an infant, or labor under legal disability, the judge of the circuit court, or judge of the county court of Winnebago county, or in their absence, any court commissioner of the circuit court may, upon application of the common council, or such party, or his next friend, appoint a guardian for such party, and all notices required by this act, shall be served upon such guardian.

Council may pay amount of damages from city fund.

SECTION 17. The common council of the city of Oshkosh may, by a vote of two-thirds of all the aldermen elect, pay out of the general fund of the city, all damages or compensation that have accrued, or been awarded, or allowed, and unpaid, and that may hereafter accrue, be awarded, or allowed to any person, company, or corporation, for the extension, opening or laying out of any street in said city, by the reason of the appropriation or taking of any land, buildings, or property, or otherwise, together with all cost and expense accruing upon the extension, opening or laying out of any street. In case of the payment of damages or compensation, as provided in this section, the property assessed for benefits to pay such damages and compensation shall be released and relieved from such assessment and tax for benefits, by the council, but in lieu thereof, shall be assessed for their proportion of such damages so paid, in common with other taxable property of said city.

Powers of council to lay out streets, etc.

SECTION 18. The common council shall have power, by ordinance, to lay out public squares, grounds, streets and alleys, and to extend, open, widen and straighten the same, in all cases where it is not necessary to take lands against the will of the owner or owners of the same. In case of

ment is made, and shall have the same force and effect. And all such lands, or pieces or parcels of land shall be subject to such taxes in whosesoever hands they may come, and all persons and corporations shall be liable to pay such taxes so assessed on such personal property, and such taxes shall be collected in the same manner as other taxes. As soon as said tax shall be levied, the common council shall cause the same to be copied in a book provided for that purpose, setting opposite to each tract of land and each person named, such sum or sums as may be levied upon such lot or against such person; the said copy shall be designated as the tax roll, and to it shall be appended a warrant signed by the mayor, and clerk, and sealed with the corporate seal of said city, directed to the treasurer, requiring and commanding him to collect the taxes and assessments in said roll specified. Such tax roll before being delivered to the treasurer, shall be compared by the clerk with the assessment roll, and to it he shall append his certificate that the same has been so compared by him, and that the said assessment roll and the whole thereof has been copied with such tax roll, and when so certified shall be *prima facie* evidence that the lands and persons therein named were subject to taxation and that the assessment was just and equal.

When treasurer to collect taxes.

SECTION 3. Upon the receipt of the tax list by the treasurer, he shall proceed to collect the taxes and assessments of said city at the same time as is required by law of town treasurers to collect taxes.

Treasurer to publish notice.

SECTION 4. The city treasurer shall, upon the receipt of the tax list, publish a notice in the official paper of the city, specifying that all taxes and assessments, whether upon real or personal property in said tax list, shall be paid on or before the last day of December of said year, and that all taxes and assessments not paid by that day will be collected by the seizure and sale of the goods and chattels of the person, company or corporation charged with such taxes and assessments, and the publication of such notices shall be deemed and taken to be a demand, and failure to pay the taxes and assessments within the time limited in such notice shall be deemed a refusal to pay the same. The city treasurer shall charge no fees for collection of taxes and assessments paid to and collected by him prior to the first day of

January of each year, and shall charge and collect five per cent. upon all taxes and assessments paid to and collected by him after that date; provided, that the common council shall have power to extend the time for collecting such taxes not exceeding thirty days from the expiration of original warrant.

Delinquent tax list.

SECTION 5. In case no goods [or chattels shall be found, out of which to collect the taxes, on any lot or lots or other pieces of land or property, it shall be his duty to make out a list of all of the property and taxes remaining unpaid at the time required by law; and the list so made, with his affidavit thereto attached, stating that the taxes therein contained had not been collected, and that he had not been able to find goods and chattels out of which to collect the taxes, shall be called the "delinquent list," and it shall be his duty to deliver such delinquent list to the treasurer of the county of Winnebago, at such time as is required by law; and he shall, at the same time, pay over to the county treasurer of Winnebago county, all moneys collected by him belonging to said county, and all taxes belonging to the state of Wisconsin, in the same manner as required by law of town treasurers.

County treasurer to return money and certificates to city treasurer.

SECTION 6. It shall be the duty of the county treasurer of Winnebago county, and he is hereby required, when lots, tracts, pieces or parcels of land have been returned by said city treasurer for any general tax of the state, or for any tax or assessment authorized under the provisions of this act, immediately after the sale of said delinquent lots, tracts, pieces or parcels of land by him, to pay to said city treasurer the amount which may have been returned delinquent, belonging to said city, either in cash or in certificates of sale of said tracts, lots, pieces or parcels of land so returned as delinquent.

Informality not to affect validity of tax.

SECTION 7. All directions hereby given for the assessment of lands, and levying and collection of taxes and assessments, shall be deemed only directory, and no error or informality in any of the proceedings of any of the officers [entrusted] with the same, not affecting the substantial justice of the tax itself, shall vitiate or affect the validity of the tax so assessed.

How assessments to be carried out.

SECTION 8. In all cases, by the provisions of this act, any charge or assessment shall be carried

out on the tax roll in a separate column or columns, opposite to the lot or tract upon which the same may be a lien. The treasurer shall collect or do all other acts in regard thereto in the same manner as in the collection of other taxes.

Duty of city treasurer.

SECTION 9. The said city treasurer shall keep, in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer, from any source whatever; and the same shall be paid by him into the general fund of said city for the benefit of the city, and such books shall at all times be open to inspection by the mayor or common council or to any committee appointed by the common council; and the said city treasurer, when required by the common council, shall make a report, under oath, of all fees by him received as such city treasurer.

CHAPTER IX.

OPENING AND LAYING OUT STREETS AND ALLEYS.

Power of council to lay out streets, alleys, etc., and to take property therefor.

SECTION 1. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen or straighten or extend the same as follows: Whenever ten or more freeholders of the city shall petition the council to take certain lands for public use, for any of the purposes aforesaid, and shall specify therein with reasonable certainty, the courses and distances, metes and bounds of the land proposed to be taken, and the names and residences of the owners of such premises, so far as the same can be ascertained, and deposit with the city clerk the fees hereinafter prescribed for the expenses of ascertaining whether it is necessary to appropriate such property for such public purposes, the common council may, if they are of the opinion that the public interest demands that the request of such petition be granted, in whole or [in] part, cause notice of such application to be given by publication of a notice thereof in the official paper of the city; if there be none, then in some paper published in said city, of at least four weeks, at least once in each week; provided, however, that if the land required by the petition to be taken shall be so taken, in whole or in part, such money shall be refunded to the petitioners, and such costs shall be assessed with the dam-

ages upon the real estate benefited, as hereinafter provided.

SECTION 2. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge or a court commissioner for the county of Winnebago, for the appointment of twelve jurors to view said premises and to determine whether it will be necessary to take the same for the purpose specified in said petition. What notice to contain.

SECTION 3. Upon the presentation of such application, and upon the proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may lie, nor interested in said premises. The judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises, to be specified in said precept, and to make returns under their hands to the common council whether, in their judgment, it is necessary to take said premises for the purposes specified in said application. Jury to be selected to view premises to be taken.

SECTION 4. The chief of police shall serve this precept immediately on the jurors therein named, by reading the same to every one of them that can be found, and immediately after such service he shall return said precept to the judge or court commissioner who issued the same, together with the doings thereon. Chief of police to serve precept.

SECTION 5. If any of the jurors so appointed cannt be found, or shall be disqualified from acting, or shall refuse to act, the judge or court commissioner may appoint others in their places, and a memorandum of such substitution shall be indorsed on the precept. Substitution of jurors.

SECTION 6. The said judge or court commissioner shall thereupon administer an oath to said jurors, that they are freeholders of said city and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust imposed in them, which said oath shall be filed in the office of the city clerk. Judge to administer oath to jurors.

SECTION 7. The said jurors shall, at such time Duty of jurors.

territory in other wards, permit the use of such sewer by other wards, and apportion the cost for such use, by ordinance, between the wards, and provide and fix the sum which shall be paid for the use of the same; and may further provide for maintaining and keeping in repair such sewer or drain.

A uniform system of sewerage.

SECTION 11. The common council may, whenever it deems it advisable, by ordinance, provide for a uniform system of sewerage, and by such ordinance provide for connecting the different sewers in the city already built and hereafter to be built, and apportion the cost of the same between the different wards.

Sidewalks chargeable to adjacent lots.

SECTION 12. A sidewalk across an alley and passage-way into the street shall be built at the expense of the lots abutting such alley, to be apportioned thereon, or such portion thereof, and in such proportions, by the aldermen, as they shall deem the same respectively benefited.

Lots liable for improvement of streets.

SECTION 13. Lots shall be liable as in this chapter provided, for the improvement of the streets to the center of the street on which they abut or join, and corner lots for all sidewalks up to the crossings or crosswalks.

Crosswalks, drains and sewers to be constructed and kept in repair by wards.

SECTION 14. The ward shall construct and keep in repair all crosswalks, drains or sewers across the street from sidewalk to sidewalk, or on that portion used for a public street, exclusive of what is used or may be wanted for sidewalks, and also that portion of the street lying between the crossing where streets intersect.

How charges against lots to be collected.

SECTION 15. When work is done or improvement made which, under this chapter, is chargeable to the lots as aforesaid, the alderman of the proper ward shall give to the contractor or person doing or performing the same, or his assigns, a certificate, countersigned by the clerk, for the amount due him, and containing a description of the land to which the same is chargeable, which certificate shall be transferable by endorsement, and shall draw interest at the rate of fifteen per cent. per annum from date of issue, (provided the same is not paid within twenty days from date), until the same is inserted in the tax roll, as hereinafter provided; and if the amount thereof and interest shall not be paid before the clerk makes out the annual tax roll next after the date of its issue, the clerk shall insert and assess

the amount thereof, with interest as aforesaid, to the time of its being so inserted in the tax roll upon and against the lot or parcel of land described therein in such tax roll, and as a part of the tax against such lot, and the same shall be collected as other taxes and assessments, for the benefit of the holders of such certificates respectively; and when any such work is done or improvement made by the ward or wards, the same shall be inserted in the tax roll and collected in like manner; provided, however, that in no case shall the city be liable for the amount of such certificate, or any part thereof, unless the same has been actually paid into the city treasury; and the sale of such land therefor shall not be regarded payment, and the same shall not be regarded as paid, until the parties interested shall have actually redeemed such lots from such sale.

When grading of streets to be charged to lots.

SECTION 16. When in grading any street the cost of cutting or filling in front of any lot shall be, in the opinion of the aldermen of the ward in which the same is done, greater than such lot is benefited, the aldermen may apportion a portion of such cost among and on such lots, and in such proportion or amount as they may deem to be benefited thereby, as is herein provided for the building of sewers, and upon property in different wards in like cases as is provided in the construction of sewers.

When expense payable out of ward fund.

SECTION 17. When in the construction of any street, drain or sewer, if from deep cutting, digging or filling, or any cause or reason the aldermen are of the opinion that the same in whole or part should be paid out of the ward or wards' fund, then the same may so in whole or in part be paid; provided, however, that no portion thereof shall be paid out of the fund of any ward without the consent of the aldermen of such ward.

Sidewalks to be kept in repair at expense of lots.

SECTION 18. All sidewalks shall be kept in repair, and clear and free from all obstructions at the expense of the lot adjoining or abutting thereon, and of the owner or owners thereof, and in case the owner or occupant shall fail to keep such sidewalk in repair, and clear and free as aforesaid, the aldermen of the ward may cause the same to be done and charge the expense thereof to such lot respectively; provided, however, that no sidewalk shall be so repaired at the expense of the lot, when the cost of such repair

shall exceed one-half of the cost of a new sidewalk of the kind in front of such lot, except in the same manner as required for the building of a new sidewalk; provided, however, that if a sidewalk on or in front of any lot shall become injured or destroyed by the burning of any building or property, and the same shall not within a reasonable time be repaired or rebuilt by the owner of such lot, the aldermen may repair or rebuild such sidewalk at the expense of the lot without notice or letting to the lowest bidder.

Abatement of nuisances.

SECTION 19. When the aldermen of any ward shall deem any lot injurious to public health, by reason of stagnant water, or from other causes, they may order that such nuisance be abated, by draining or filling such lot, or in any other manner, by the owner or occupant, and upon their failure to do so, such aldermen may abate or cause to be abated at the expense of such lot, by taking the same proceedings as are required for the building of a sidewalk.

When work done by wards.

SECTION 20. When a ward or wards shall do any work or make any such improvement or make any repairs, or do any other work or labor as provided in this chapter, which shall be a lien or charge upon any lot, a like certificate as is provided to be issued to contractors or other persons may be issued to such ward or wards, and be collectible in the same manner; or the aldermen of the ward or wards which are entitled to the same, may make a statement or statements and file the same with the city clerk, of the amount or amounts due to such ward or wards for doing any such work or labor, or making any such improvement, and the amount chargeable to each lot, which amount the clerk shall insert and add to the tax chargeable to such lot in the annual tax roll, issued, next after the filing of such statement, and the same shall be a lien thereon and collectible as other taxes.

Removal of snow and ice from sidewalks.

SECTION 21. Whenever the aldermen of any ward shall deem it necessary to remove the snow or ice in front of any lot or piece of land in said city and the owner or occupant shall neglect to remove the same, the aldermen of the ward may remove or cause such snow and ice to be removed and charge the same to the lot, the same as in cases of repairs of sidewalks, which said charge shall be collected by taking the same proceedings

against such lot as are required for the building or repairing of sidewalks.

Assessments may be made at any time.

SECTION 22. If for any cause any tax or assessment, chargeable to any lot under the provisions of this chapter, shall not be entered or assessed against such lot at the time therein provided, then the city clerk may enter or assess the same against such lot in any subsequent tax roll.

When there is patent right upon improvements ordered.

SECTION 23. When any improvement is ordered to be made, and there shall be a patent right upon the same, or any portion thereof, the city, before giving the notice required to make such improvement, shall purchase the right to use the same in making such improvement, and the letting shall be on such basis. The cost thereof shall be divided *pro rata* upon the lots chargeable with the improvement, according to the frontage improved. The contractor shall pay the city such portion thereof as shall be due upon the work by him to be done, and the amount by him paid shall be added to the other charges, and inserted in the certificate. If the owner of the lot shall do the work, he shall pay the city his *pro rata* share thereof as aforesaid. If any ward or wards do any portion of the work, then such ward or wards shall pay the city their share thereof on such work, and the ward or wards shall collect the same out of the lot or lots chargeable therewith, the same as other charges for work. If the owner of any lot does the work or makes the improvement, and shall fail to pay the city the proportion of the purchase money chargeable to such lot for the use of such patent right, then the city may charge the amount against said lot.

Order of aldermen may be changed by council.

SECTION 24. An order made by the aldermen of any ward or wards, fixing or changing the grade of any street, may be revoked, altered, changed or modified by the council. Any order made by the aldermen of any ward or wards, changing or fixing the grade of any sidewalk, or directing the building of any new sidewalk, may be revoked, altered, changed or modified by the common council at any time within ten days after the same is made.

Record of proceedings to be kept.

SECTION 25. There may be kept in the city clerk's office a book or books for each ward, wherein may be entered by the clerk or aldermen of the respective wards, all orders, entries or proceedings required to be done or had under any of

the provisions of this act, or any other matter appertaining thereto, or to ward matters, and a like book may be kept for the entry of all proceedings and orders when anything is done by different wards together, as herein provided, in doing any work or making any improvements of any kind, and there may be entered in such book or books any fact or item appertaining to such proceedings, and as to the service or publication of any notice required by law to be served, given or published, and that any act was done by the aldermen or clerk in making any improvement, and that a notice was served, given or published, as required by law in certain proceedings, or to carry out any order or requirement on the part of the aldermen without stating the contents of such notice, and in addition thereto may be entered that due proof of the service of publication of any notice has been made and filed in his office, or there may be pasted in or attached to such book a written or printed, or partly written and partly printed, copy of any notice or proceeding, which shall be admitted in evidence in all courts the same as the original would be entitled to be; and there may also be entered in such book such other matter as may properly appertain to any ward matters. It shall not be necessary for the aldermen to sign any order, memorandum or other entry in any such book, or in lieu thereof, any such orders or proceedings may be signed by the aldermen of the respective wards and filed in the city clerk's office, and such book or books, or any of them, shall be received and admitted in evidence in all courts, in any proceedings whatever, and shall be *prima facie* evidence and proof of all entries, memoranda, facts, items and matters and things therein contained, and the said orders and proceedings shall be received in evidence in like manner and with like effect.

Certificates of aldermen to be admitted as evidence.

SECTION 26. Any and all certificates made by the aldermen of any ward, or wards, of any act done or notice given, served or published under the provisions of this chapter, shall be received and admitted in evidence in all courts of this state, and shall be *prima facie* evidence of all the facts therein contained, and that such acts were done and proceedings had, and such notice served or published as therein certified to. And all proceedings had under the provisions of this chapter, or

attempted to be had under the same, shall, in all courts, be deemed, presumed and taken to have been regular, and it shall be taken and presumed that all the provisions of this chapter were complied with, until the contrary is shown.

When assessments adjudged void.

SECTION 27. If any taxes or assessments chargeable to any lot, under any of the provisions of this chapter, in any suit, shall be adjudged void, in whole or in part, for any irregularity in the proceeding, or non-compliance with any of the provisions thereof, the court in which said case was tried shall, any time within one year after such judgment, upon the application of the owner of such tax and assessment, and a defendant in such suit cause an issue to be made up between such owner and defendant and the plaintiff, wherein such plaintiff shall be defendant, and such owner and defendant, plaintiff; as to the value of such improvements, and whether the same were made in good faith, and if the jury find that such improvements were made in good faith, the court shall judge the value thereof, as found by the jury, to be a lien upon such lot, with costs of suit on such issue, and execution may issue on such judgment, directing the sale of such lot, to pay the same and costs of sale, and the same shall be sold as other real estate is sold on execution. At any time within eight months after such sale, a redemption can be made therefrom, as on the sale of real estate upon other execution, by the payment of the amount for which it was sold, together with ten per cent. interest thereon from the time of sale.

Taxes declared void may be re assessed.

SECTION 28. When any taxes or assessments chargeable to any lot, under any of the provisions of this chapter, shall be set aside or declared void, in whole or in part, by any court, by reason of any irregularity in any of the proceedings, or the non-compliance with any of the provisions of this act, or of the charter of said city, or in ordering or letting the work, or making contracts in relation thereto, the city council, at any time within two years after the same are declared void, at the request of any party interested in said tax or assessment, may order such tax or assessment so declared void, to be recharged or assessed against said lots respectively, and collect the same as any other taxes or assessments; provided, however, if the party avail himself of the remedy to penalty, provided by section 27, of this chapter, he shall

be deemed to have waived his remedy under this section.

Liability of wards for damages.

SECTION 29. If the city shall be subjected to any damages hereafter occasioned, in consequence of any sidewalk or street being out of repair or not in safe condition, such ward in which said defective street or sidewalk is situated, shall be liable to the city for all damages, costs and expenses which such city shall be subjected to, and such damages, costs and expenses may be assessed by the common council upon the taxable property of the ward in which such defective sidewalk or street is located, and collected the same as other city taxes. If any ward shall be subjected to any tax in consequence of any damages done or permitted by the occupant of any lot to any sidewalk or street on which it abuts or fronts, occasioned by digging in the street, driving over the sidewalk or by permitting snow to accumulate on the walk, such occupant shall be liable to such ward for all damages, costs, expenses and taxes which such ward shall be subjected to, and such damages, costs, expenses and taxes may be recovered by such ward in a court of competent jurisdiction, by a suit in the name of the city of Oshkosh, and against such occupant.

All real estate liable to assessment.

SECTION 30. All real estate shall be liable for the taxes and assessments provided for and authorized to be assessed in this chapter, in manner and form aforesaid, including any real estate belonging to any county or the state of Wisconsin.

Informality not to vitiate proceedings.

SECTION 31. All the provisions of this chapter shall be regarded as directory, except the provision of giving notice as aforesaid, and if such notice is given as herein required, no informality or irregularity or error in the proceedings shall vitiate such assessment of taxes.

When city may be made liable.

SECTION 32. The city shall not be liable to or for any damages arising or growing out of any sidewalks, streets, drains, sewers, gutters or ditches, or bridges in said city, being in a defective or dangerous condition, or out of repair, unless it be shown that previous to the happening of the same one of the aldermen of the ward in which the same is located had knowledge thereof, and no knowledge of such condition of the same shall be presumed, unless the defect out of which the same occurred existed three weeks before such damages accrued; provided, however, that noth-

ing herein contained shall be so construed as to mean that knowledge is to be presumed because such three weeks had elapsed.

What deemed as lots.

SECTION 33. Whenever the word lot or lots is used it shall be deemed to include parts of lots, parcels and strips of land, or any other subdivision of land; and where the word alley is used it shall be deemed to include all lanes; and where the word street is used it shall be deemed to include highways; and wherever the word aldermen is used in connection with any ward matter it shall be understood to mean a majority of the aldermen of the ward; and all the provisions of the revised statutes relative "Of the construction of statutes" shall apply to all the provisions of this chapter.

How things to be done by council.

SECTION 34. Anything required to be done under any of the provisions of this chapter by the common council, may be by order, resolution or ordinance.

Streets to be kept in repair by wards.

SECTION 35. All streets heretofore or hereafter, once graveled, paved or planked at the expense of the property fronting, adjoining or abutting thereon, such street, so far as the same has been graveled, paved or planked (except sidewalks), at the expense of the property on the street, to be so maintained and kept in order at the expense of the ward such street or streets are located in. All the taxes therefor, made necessary to be levied and collected the same as ward taxes upon the taxable property of the ward in which such street is located, anything in this chapter or charter to the contrary notwithstanding.

Contracts to be made in name of city.

SECTION 36. All written contracts to be made under this chapter shall be executed in the name of the "City of Oshkosh" and signed by the aldermen or a majority of the aldermen of the ward in which the work or improvement is situated, of one part and signed by the contractor of the other part. All verbal contracts to be executed in like manner in the name of the city; and all bonds which may be required of contractors to secure the performance of such contracts shall be made and executed to the city.

Certificates to apply in payment of taxes.

SECTION 37. The certificates issued under this chapter on the property therein described in such certificate for work or improvements, shall be received by the county treasurer of Winnebago county, on sale of land for unpaid or delinquent

taxes for the same year and tax named in the street improvement certificates for the land therein described, and to be held by the county until the land is redeemed; and in case the improvement tax should be set aside, or the tax certificate of sale issued by the county treasurer cancelled by judgment of court or otherwise, then the holder or legal representative of such certificate of sale issued by the county treasurer shall receive the street improvement certificate (so received by the county treasurer) from the county, for its face, in payment for any claim against the county for the amount of such tax and charges named in the street improvement certificate for which the land was sold.

CHAPTER XI.

FIRE DEPARTMENT.

Power of council to provide against fire.

SECTION 1. The common council shall procure fire engines and other apparatus used for the extinguishment of fires, and have charge and control of the same, and shall provide, fix and secure houses and other places for keeping the same, and shall have power to appoint a chief engineer, define his duties, fix his salary, and remove him at pleasure; to organize fire, hook, ladder and hose companies and disband the same; to purchase horses and necessary apparatus and fuel for steam engines, and to provide for the appointment of a necessary number of competent persons to take the care and management of the steamers, engines, horses and other fire apparatus; to prescribe their duties, and to summarily remove such persons at the pleasure of the common council; to prescribe the duties of firemen and their compensation, and to make rules and regulations for their government, and to impose reasonable fines and forfeitures upon them for a violation of the same. Every fire company organized by the common council shall not exceed, for hand engines, sixty able-bodied men, and for steam engines, thirty able-bodied men, between the ages of eighteen and fifty years, and they may elect their own officers, and shall be formed only by voluntary enlistment. Every member of each company hereby authorized to be formed shall be exempt from service on juries and from military duty, during the continuance of such membership, except in case of insurrection or invasion.

Membership of fire companies.

SECTION 2. Whenever any person shall refuse to obey any lawful order of the chief engineer, the mayor, any alderman, fire warden, chief of police, or any policeman, at any fire, it shall be lawful for the officer giving any such order to arrest, or direct orally any policeman, constable or any citizen to arrest any such person and to confine him temporarily in the watch house, or any safe place until such fire shall be extinguished, and in the same manner such officer or any of them may arrest or direct the arrest and confinement of any person at such fire who may be intoxicated or disorderly, and if any person shall refuse to arrest or aid in arresting any person who shall be intoxicated or disorderly, he shall be liable to such penalty as the common council shall prescribe, not exceeding twenty dollars ($20). When summary arrests may be made.

SECTION 3. All the expense of the fire department shall be hereafter a city charge, and the taxes therefor to be assessed and collected as other city taxes. Expense of fire department to be a city charge.

SECTION 4. The aldermen of such wards of the city of Oshkosh, out of its ward funds, may by contract or otherwise construct and maintain in said wards, reservoirs to supply with water the city fire department, and for ward purposes, by sinking artesian wells or fountains, or may construct reservoirs to be filled in any other manner, and may purchase lands upon which to build such fountains, wells and reservoirs, deeds to be given to the city of Oshkosh, in trust for such wards, and the same shall be the property of such wards. When a majority of the aldermen of such wards shall certify that it is advisable to sell any such property, and the common council shall so determine, it shall dispose of the same by deed or deeds, and no sale shall be made except upon notice for three weeks, published in the official city paper, and at public auction, with the right to reject any and all bids; deeds to be executed the same as now provided by the city charter for executing deeds. Reservoirs to be erected from city funds.

SECTION 5. A majority of the aldermen of such ward may construct jets and fire hydrants, and also hydrants for public and private use, and fountains in such places in such wards as a majority thereof may determine, and may lay water pipes in and through all the alleys, streets and public grounds in the said wards, and generally do all Aldermen may make provision against fire.

such things and work as may be found necessary or convenient, from time to time, for the purposes of this act, and for that purpose may enter any lands or water in the city for the purpose of making examination or survey.

Power of council to make regulations relating to water works.

SECTION 6. The common council of the city, upon the recommendation of the majority of the aldermen of such wards, shall have power, from time to time, upon the recommendation of a majority of the aldermen of such wards, to make by-laws, rules and regulations by ordinances, in relation to such water works, for the preservation and protection thereof, fixing uniform water rates to be paid for the use of water furnished by the wards, the same to be enforced and collected in the name of the city of Oshkosh, of parties using said water; and fixing the manner of distributing and supplying water for use and consumption, and for withholding or shutting off the same for cause; and impose proper fines and penalties for violation of such ordinance. All penalties and fines shall be collected in the same manner as penalties for the violation of the city ordinances, and shall be paid to the treasurer of the city, and credited to the ward's fund of such wards, for the benefit of said wards. All expenses incurred in and about such wards, water works, wells and reservoirs, shall be paid for out of the ward's fund, and all income therefrom shall be paid into the fund of such wards.

When improvements exceed $2,000.

SECTION 7. Whenever any of the improvements herein authorized, the cost of which shall exceed two thousand dollars ($2,000) in any one year, the aldermen of such ward are required to have their action approved by the common council before the wards can be made liable to payment therefor, and under no circumstances shall the city be liable for any of the costs or expenses thereof; but all costs, charges and expenses, accruing or arising in any suits or litigation, arising or growing out of the same, or otherwise, the same shall be chargeable and paid out of the fund of such ward.

CHAPTER XII.

BOARD OF EDUCATION.

School district limits.

SECTION 1. All territory within the present corporate limits of the city of Oshkosh, and all territory which may hereafter be attached to and

incorporated in the limits of said city, shall constitute one school district. The commissioners of common schools herein named, and the superintendent thereof, shall be styled the "Board of Education of the city of Oshkosh," a majority of whom shall constitute a quorum. The superintendent of schools in said city shall be *ex officio* president of the board of education, and in case of a tie shall be entitled to a casting vote. The term of his office shall be one year, and his compensation shall be six hundred dollars ($600) per annum, which salary shall be paid out of the school fund. Board of education.

SECTION 2. The city clerk shall be the clerk of the board of education, whose duties shall be to keep a record of the proceedings thereof, and perform such other duties as the board may prescribe, which record or transcript thereof, certified by the clerk, shall be received in all courts as *prima facie* evidence of the facts therein set forth. The compensation of the said clerk for such services shall be two hundred dollars ($200) per annum, to be paid from the school fund. It shall be the duty of the city clerk within ten days, immediately after the election of any person as commissioner of common schools, or as superintendent of the same, either personally or by writing, to notify him of his election; and if any such person shall not within ten days after receiving such notice, take and subscribe the constitutional oath and file the same with the clerk of said city, the common council may consider it a refusal to serve, and may proceed to fill such vacancy in the manner herein before provided. Duties of city clerk.

SECTION 3. It shall be the duty of the common council of said city to pass such ordinances and regulations as the board of education may report to them as necessary and proper for the preservation and protection of the school houses, sites and all other property belonging to and connected with the public schools of said city, and impose proper penalties for the violation thereof; and all such penalties shall be collected in the same manner as penalties for the violation of the city ordinances, and shall be paid to the treasurer, and be subject to the order of the board of education, and shall be expended by said board for the use of the said schools in said city. Duties of common council.

SECTION 4. The title of all the school houses, sites, furniture, books and apparatus shall become Title of school property vested in city.

and be vested in the city of Oshkosh, and the same, while used for school purposes, shall not be levied upon or sold by virtue of any warrant or execution, nor be subject to taxation for any purpose whatever.

Selling of school property.

SECTION 5. Whenever said board of education shall report to the common council that it is advisable to sell any of the school houses or sites now or hereafter belonging to said city, the common council may dispose of the same, but no such conveyance of real estate shall be made except upon the recommendation of the board of education, nor shall any school house or site, belonging to said city for school purposes, be used for any other purpose, without the unanimous consent of said board.

Removal from office.

SECTION 6. Any commissioner of common schools in said city may be removed from office for official misconduct, by the common council, by a vote of two-thirds of the aldermen present, but in all cases shall be granted a full and fair hearing before such removal.

Powers and duties of board of education.

SECTION 7. The board of education shall have power and it shall be their duty:

1st. To establish and organize such schools in said city, as they may deem expedient and necessary, and in their discretion to discontinue the same.

2d. To purchase or lease school houses or lots or sites for school houses, and to fence or otherwise improve the same, as they may deem proper, upon such lots and upon any sites now owned by said city; to build, enlarge, improve and repair school houses, out houses and their appurtenances as they may deem proper; provided, no purchase of school house sites or real estate shall be made without the approval of the common council.

3rd. To purchase, exchange, repair or improve school apparatus, furniture, books for indigent pupils, to purchase and provide for a school library for the children and teachers of the public schools; and provide rules for the government of the same and to provide fuel for the schools, and to defray their contingent expenses.

4th. To have the custody and safe keeping of the school houses, out houses, books and furniture belonging to the schools in said city, and see that the ordinances of the common council relating thereto are strictly observed.

5th. To employ and contract with all teachers in the common schools, to whom the necessary certificates may have been given by the superintendent, and at their pleasure to remove them; provided, that no contract for the employment of teachers shall extend beyond the first day of July next succeeding the date of such contract; to have in all respects the supervision and management of the common schools in said city, and from time to time make, alter, modify and repeal as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils from other districts and the transfer of pupils from one department to another, and generally for their good order and utility.

6th. To make such orders and regulations in regard to the examination of teachers as they may deem proper; provided, that such examination shall be conducted by the superintendent, or in his presence, and none but the superintendent shall be authorized to issue and give certificates of qualification.

Attendance of non-resident children.

SECTION 8. The said board shall have power to allow children of parents not residents of the city, to attend any of the schools of said city, and to fix the amount of tuition to be paid by them, and the terms upon which they may attend such schools.

Trustees of school district library.

SECTION 9. The said board shall be trustees of the school district library in said city, and shall expend all moneys appropriated by law or gift, for enlarging or establishing the same.

Board to publish statement.

SECTION 10. The said board shall each year prepare a correct statement of all receipts and disbursements of school moneys during the preceding year, specifying from what source received and for what purpose expended, which statement shall be published at least ten days before the annual charter election, in the official newspaper of said city.

Board to certify to council the sum necessary for expenses.

SECTION 11. The said board of education shall determine and certify to the common council of said city, such sums of money as they may deem necessary for defraying the current expenses of the public schools, but such sum so certified in any one year, shall not exceed the sum of two thousand dollars ($2,000) over and above the cur-

rent expenses levied to said city for the previous year.

Board to certify sum necessary for purchase of sites.

SECTION 12. It shall be the duty of the board of education to certify to the common council of said city, such sums of money as they may deem necessary for the purchase of school houses, sites, or for the building of school houses; provided, that the amount so certified shall not exceed in any one year the sum of eight thousand dollars ($8,000). It shall be the duty of the board of education to file with the city clerk of said city, on or before the first day of November of each year, a certificate or certificates, in writing, stating the amount of money to be raised, as determined by them, either for building or general fund purposes, which certificate or certificates shall be signed by the president of said board, and it shall be the duty of the clerk to place the same on the tax roll for that year, and the common council shall cause the sum therein provided for to be levied and collected annually, in the same manner as other taxes are levied and collected in said city.

Money to be paid to treasurer.

SECTION 13. All moneys raised by this act for school purposes shall be paid to the city treasurer, who shall be accountable therefor in the same manner as for other moneys of said city.

Board may prosecute bond of city treasurer.

SECTION 14. The said board of education may cause a suit or suits to be commenced and prosecuted in the name of the city of Oshkosh, upon the official bond of the treasurer of said city, for any default, delinquency or official misconduct in relation to the collection, safe keeping and disbursement of any school moneys that may come into his hands.

City exempt from certain laws.

SECTION 15. The city of Oshkosh is hereby exempt from the provisions of the revised statutes in relation to the office of county superintendent of schools, except in the matter of making reports to the state superintendent.

Parties liable for unauthorized expenditures.

SECTION 16. In case any school commissioner, or the superintendent of schools, shall purposely vote for any appropriation, or for the payment or expenditure of any money not authorized by law, or in case the board of education shall authorize any expenditure for any purpose, not authorized in this act, or exceeding the amount the board of education are authorized to certify to the common council to raise for any purpose in any one year, the school commissioner, or any of them, or the

superintendent of schools voting for any such expenditure or appropriation, or for the contracting of any such debt or debts, shall be personally liable to the city of Oshkosh, or to any person or persons who may sue for the same, in an action in a court of competent jurisdiction, for any damage the city may sustain in consequence of such illegal payment, expenditure or appropriation.

CHAPTER XIII.

SUPPORT OF THE POOR.

Election of overseer annually.

SECTION 1. At each annual election of city officers the common council shall elect, with other officers, an overseer of the poor, who shall hold his office for one year, subject to removal by the council.

CHAPTER XIV.

MISCELLANEOUS PROVISIONS.

All work to be let to lowest bidder.

SECTION 1. All work for the city, including all printing and publishing, shall be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting such contract, and the council shall have the right to reject any bid, when it is deemed for the interest of the city to do so.

Appropriation of moneys.

SECTION 2. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

How judgments discharged.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a majority of the aldermen elect.

Actions in name of city.

SECTION 4. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the clause of this act or by-law or ordinance under which the penalty or forfeiture is claimed, and to give special matter in evidence under it.

SECTION 5. In all the prosecutions for any violation of any of the provisions of this act or any by-law or ordinance, the first process shall be a summons, unless oath be made for a warrant as in other cases.

Form of complaint by summons.

SECTION 6. When the action is commenced by summons the complaint may be substantially in the following form:

CITY OF OSHKOSH, against ———— ———. } In Justice Court.

The plaintiff complains against the defendant in an action of debt for that the defendant did, on the ——— day of ———, 18—, violate section ——, of an ordinance (or by-law, describing it by its title), which said action hath accrued to the city of Oshkosh, to recover of the defendant the sum of ——— dollars debt. Wherefore the plaintiff demands judgment against said defendant for the sum aforesaid, besides the costs of this action.

Form of complaint by warrant.

SECTION 7. In all cases where the oath is made for a warrant the complaint shall be made on the oath of the complainant, and no other affidavit shall be necessary, which complaint last above named may be substantially in the following form:

THE CITY OF OSHKOSH, against ———— ———. } In Justice Court.

State of Wisconsin, county of Winnebago—ss. ———— ————, being duly sworn, complains on oath to ——— ———, justice of the peace of the city of Oshkosh, that ——— ——— did on the ——— day of———, 18—, violate section —— of an ordinance (or by-law, describing its title), which said ——— is now in force and effect as this complainant verily believes; and prays that said ———— ————, may be arrested and held to answer to said city of Oshkosh therefor.

Subscribed and sworn to before me this ——— day of ———, 18—.

———— ————.

It shall be sufficient to give the number of the section or sections, and the title of the ordinance or by-laws, or the law violated in the foregoing forms of the complaints, and the said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant thereon, which may be substantially as follows:

STATE OF WISCONSIN,
County of Winnebago, } ss.
City of Oshkosh.

Form.

The state of Wisconsin, to the sheriff or any constable of said county, or to the chief of police or any policeman of the city of Oshkosh, greeting:

Whereas ——— ——— has this day complained to me in writing, on oath, that ——— ——— did, on the ——— day of ———, 18—, violate ——— section or sections, of ordinance, by-law, regulation or law (as the case may be, describing it by its title), which said ——— is now in full force and effect, as complainant verily believes. Therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the body of said ——— ———, and bring him before me forthwith, to answer to the said city of Oshkosh, on his complaint aforesaid.

Given under my hand, this ——— day of———, 18—.

———, Justice of the Peace.

How case to be proceeded with.

Upon the return of the warrant, the justice may proceed summarily with the case, unless it be continued by consent or for cause. If the cause be adjourned, the defendant, if required by the court to do so, shall recognize with security to be approved by the court, for his, or her appearance in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the watch house of said city or the common jail of Winnebago county. The complaint made as aforesaid shall be the only complaint required, and a plea of "not guilty" shall put in issue all subject matter embraced in the action.

Printed copy to be evidence.

SECTION 8. A printed copy of an ordinance, by-law or resolution, passed by the common council, and published in a newspaper, or in a pamphlet or book form, shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Witnesses and jurors to attend without prepayment of fees.

SECTION 9. Witnesses and jurors shall attend before a justice of the peace in all city suits without the payment of fees in advance, or a tender thereof, upon process of the court, duly served,

and in default thereof, their attendance may be compelled by attachment.

Process in city prosecutions.

SECTION 10. In city prosecutions the finding of the court or jury, shall be either "guilty" or "not guilty." If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture contained in the ordinance, by-law or resolution, for the violation of which the person or persons shall have been adjudged guilty, and the costs of suit; but if not guilty, the costs shall be taxed against the city. Upon conviction and the non-payment of such judgment, the court may forthwith issue an execution as in case of tort, and shall determine and enter upon the docket the length of the time the defendant shall be imprisoned, which in no case shall exceed six months, and also insert such time in the commitment or execution. Such execution may be in the following form:

STATE OF WISCONSIN,)
County of Winnebago, } ss.
City of Oshkosh.)

The state of Wisconsin, to the sheriff or any constable of the county of Winnebago, or the chief of police or any policeman of said city, and to the keeper of the watch house of said city, or of the common council jail in said county, greeting:

Whereas, the city of Oshkosh, on the ——— day of ———, 18—, recovered a judgment before ——— ———, the justice of the peace of said city, against ——— ———, for the sum of ——— dollars ($—), together with ——— dollars ($—), costs of suit, for the violation of an ordinance, by-law, resolution or law (as the case may be), these are therefore, in the name of the state of Wisconsin, to command you to levy distress on the goods and chattels of said ———, excepting such as the law exempts, and make sale thereof according to law, in such cases made and provided, to the amount of said sum, together with your fees and twenty-five (25) cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said ——— ———, and him convey and deliver to the keeper of the common jail in Winnebago county, or the keeper of the watch house in said city, and the said keeper is hereby commanded to receive and keep in custody in said jail or

watch house, the said ——— ———, if in the city of ———, unless said judgment, together with all costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this ——— day of ———, 18—. ——— ———, Justice of the Peace.

Not to work incompetency.

SECTION 11. No person shall be an incompetent judge, justice or juror, by reason of his being an inhabitant of and tax payer in the city, in any proceeding or action in which the city shall be a party.

Ordinances to remain in force.

SECTION 12. All ordinances, regulations or resolutions now in force in the city of Oshkosh, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council, after this act shall take effect.

Actions vested in corporation.

SECTION 13. All actions, rights, fines, penalties and forfeitures, in suit or otherwise, which have accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

In case election be not held at proper time.

SECTION 14. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation; but such election or organization may be had at any subsequent day, by order of the common council, and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said acts may be done and performed.

Never to be under jurisdiction of city.

SECTION 15. All that part of the Fox river within the limits of said city shall be kept under the exclusive jurisdiction of said city and the common council, and all bridges over the said river within the limits aforesaid shall be under its jurisdiction; and the mayor and common council of said city are hereby fully empowered to build and construct or cause to be built and constructed new bridges over said river, at such point or points as they may deem necessary, and for the best interests of the city, and to maintain and support all such bridges which the city may own now or may build hereafter, at the expense of

said city; provided, that all of said bridges shall contain draws sufficient for the passage of vessels.

Penalty for retarding work on streets.

SECTION 16. Every person who shall interfere with, molest or hinder any alderman, street commissioner, contractor or alderman, or retard the work on streets, after the same is ordered let and under contract, on any street, drain, sidewalk, or other street improvement, shall be liable to pay a penalty of ten dollars ($10), which shall be sued for and recovered (with costs) (of such person violating this section, in an action wherein the city shall be plaintiff), in the same manner as for the violation of city ordinances herein provided in this chapter.

General bridge law to apply.

SECTION 17. The general laws for the preservation of bridges, and the punishment by such laws provided for the wilful and malicious injuries done thereto, are hereby extended to and shall include all of said bridges, and shall apply to any wilful or malicious damage which may be done to either of them by any person or persons whatever; and the common council may, from time to time, make such by-laws or ordinances as they may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges, by any vessel or watercraft, or by the master or any person in command thereof, such vessel or watercraft may be proceeded against under the law to provide for the collection of demands against boats or vessels.

Service of process.

SECTION 18. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process, by the proper officer, with the mayor, and it shall be the duty of the mayor forthwith to inform the common council thereof, or to take such other proceedings as by ordinances or resolutions of said council may be in such case provided.

Private property exempt from execution against city.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on and sold by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

Respecting a new survey.

SECTION 20. The common council of said city may, at any time, appoint six commissioners, one from each ward, who, with the assistance of the city surveyor, or such other assistant surveyors as

the council may appoint, shall cause a new and accurate survey to be made of the lines and boundaries of all the streets, alleys, sidewalks, public grounds, wharves and blocks, and shall cause to be established such permanent landmarks as they may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the said mayor and commissioners, which shall be filed in the office of the city clerk, and a copy thereof shall be recorded in the office of the register of deeds of Winnebago county.

Survey to be evidence.

SECTION 21. The survey and landmarks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy, in all courts of this state.

Powers of council to establish grade of streets.

SECTION 22. The common council of said city may, at such times as they deem proper, establish the grade of all streets, alleys and sidewalks in said city, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Winnebago county; and should the grade so established be at any time hereafter altered, all damages, costs and charges arising thereupon, shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade; provided, that nothing in this section contained shall be so construed as to prevent the several wards of said city from ordering or causing to be done, the grading of any street within their ward to a temporary grade, to be established by the ward aldermen for their ward.

City may hold personal property.

SECTION 23. The said city may lease, purchase and hold real or personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same, and they shall be free from taxation while owned by the city.

All property subject to special assessments.

SECTION 24. Real estate exempt from taxation by the laws of this state shall be subject to special assessments for improvements made on streets and sidewalks, under the provisions of this act, as other real estate.

Act not to be affected by general laws.

SECTION 25. No general law of this state contravening the provisions of this act, shall be considered as repealing, annulling or modifying the

same, unless such purpose be expressly set forth in such law, as an amendment of this charter.

Subdivision and platting of lands.

SECTION 26. Every individual, or company of individuals, or body corporate, owning a lot or tract of land within the corporate limits of the city of Oshkosh, who may desire to subdivide or plot such lot or tract of land into city lots, shall, in plotting the same, cause the streets and alleys in such plot to correspond in width and in general direction with the streets and alleys through the lots and blocks in said city, adjacent to said lot or tract of land so plotted; and before recording such plot, as required by law, it shall be the duty of such person or persons making such plot, to submit the same to the common council of said city, for approval, and if said plot shall be approved by the common council, it shall be lawful for the party or parties making such plot to record the same in the manner prescribed by the revised statutes of this state concerning town plots; but except such plot shall be approved, by resolution adopted by said common council, a copy of which, duly certified to by the city clerk, shall be affixed to said plot, it shall not be lawful for the register of deeds of Winnebago county to receive such plot for record, and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000); and the register of deeds who shall record such plot, without such resolution of the common council thereto attached, approving the same, shall forfeit and pay a sum not less than fifty (50) nor more than one hundred dollars ($100).

Forfeitures to be prosecuted by city.

SECTION 27. All forfeitures and liabilities which may be incurred and arise, under and by virtue of this act, shall be prosecuted for and recovered in the name of the city of Oshkosh, and paid into the city treasury, for the use and benefit of said city, except as herein otherwise provided.

When city deeds or leases real estate.

SECTION 28. When the city of Oshkosh deed or leases any real estate, or any interest therein, owned by said city, the party of the first part shall be the city of Oshkosh, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Mayor to execute deeds.

SECTION 29. The mayor of said city is hereby authorized, when the common council shall, by

ordinance or resolution, for that purpose, describing the real estate and interest to be conveyed, order and direct him so to do, to execute a deed or lease of such real estate, or interest therein belonging to the said city; the said deed or lease shall be signed by the mayor of said city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided by law for the execution of deeds and leases.

How deed to be attested and recorded.

SECTION 30. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true and attested copy of such ordinance or resolution, and the same shall be recorded by the register of deeds with the said deed or lease, and such copy, so attached and recorded, shall be, in all courts of this state, *prima facie* evidence of the authority of such mayor to make and execute such deed or lease.

Prosecutions for keeping disreputable houses.

SECTION 31. Every person who shall set up or keep a common gaming house, or a gambling house or place, or a house of ill-fame, or a bawdy house or place, and all person or persons, inmates thereof or found therein, within the limits of the city of Oshkosh, and on trial and conviction be adjudged guilty, in an action wherein the city shall be plaintiff, in the same manner as for violation of city ordinances hereinbefore provided, shall be punished by imprisonment in the city prison or county jail of Winnebago county, not to exceed six months, or by fine not to exceed one hundred dollars ($100), or by both such fine and imprisonment, as the justice of the peace of the city or court before whom the trial is had may think proper; and on trial of persons for the violation of this section, proof of the general reputation of the house kept shall be sufficient *prima facie* evidence of the fame and kind of place or house kept.

Subsequent costs to be added to judgment.

SECTION 32. When judgment is rendered against any person for the violation of any city ordinance, and such person shall be committed for the non-payment thereof, all subsequent costs and expenses made thereon, including his board, shall be added thereto, which he shall be required to pay in case of payment of said judgment.

Duty of keeper of jail.

SECTION 33. The keeper of the common jail of the county of Winnebago, is hereby required to receive and keep all persons who shall be arrested

by the proper officers for the violation of any city ordinance, or committed for the non-payment of [any] judgment, fine or penalty.

City orders. SECTION 34. City orders may be made payable to bearer.

Lighting of streets. SECTION 35. The streets in said city, or any part thereof, may be lighted with gas or with other materials, as follows: The aldermen or a majority thereof, of each ward, may divide the ward which they respectively represent into one or more gas districts, with power, when they see fit, to change or alter the bounds thereof, or re-district the same. The majority of the aldermen of the ward in which any such gas district or districts are located, may, at the expense of all the taxable property in such district, erect gas posts therein, with necessary and suitable burners and equipments, and have the same lighted with gas.

Levy of tax for lighting streets. SECTION 36. There shall be levied and assessed upon and collected from all the taxable property in such district, a tax or assessment to pay all the costs and expenses of lighting the streets in such districts with gas as aforesaid; the same shall be collected therefrom as other taxes and assessments; provided, however, and the following real estate shall be exempt therefrom, viz.: all real estate belonging to the city, all real estate upon which buildings are situated used exclusively for religious worship.

Lighting bridges. SECTION 37. The city out of the general fund may pay for lighting the bridges across the Fox river, in said city, with gas.

Streets may be lighted from ward fund. SECTION 38. Each ward in said city, out of its ward fund, in the discretion of the aldermen thereof, may light the streets thereof with gas, and erect the necessary gas posts and equipments therefor.

Regulations for sale of liquors. SECTION 39. The common council, by resolution, may forbid any and all persons in said city, who are or may be licensed to sell strong, spirituous, ardent or intoxicating liquors, from selling or giving to any person, naming him, who in the opinion of the council is drinking or using spirituous, ardent or intoxicating liquors to such excess as to make or render such person disorderly or liable to be disorderly; and if any person licensed as aforesaid, shall sell or give to any such person any strong, ardent or spirituous liquors, or allow any other person or persons on his premises to

sell or give to such person, or to any other person for him, any spirituous, ardent or intoxicating liquors of any kind whatever, the council may declare the license of such licensed person forfeited, and such person, or any other person who shall give, sell, buy or procure for such person any strong, ardent or spirituous liquors or beer, shall be liable to a penalty of twenty-five dollars ($25), which shall be sued for and recovered, with costs, of such persons violating this section, in an action wherein the city shall be plaintiff, in the same manner as for the violation of city ordinances hereinbefore provided in this chapter.

REPEALING CLAUSE.

Repealed.

SECTION 40. All acts incorporating the city of Oshkosh, and amendatory to the city charter, are hereby repealed; and all acts and parts of acts inconsistent with and conflicting with the provisions of this act are hereby repealed; but the repeal of said acts and parts of acts shall not in any manner affect, injure or invalidate any contracts, acts, suits, claims or demands that may have been entered into, performed, commenced, or that may exist under, or by virtue or in pursuance of the said acts, or any of them, but the same shall exist and be in force, and carried out as fully and effectually to all intents and purposes as if this act had not been passed.

SECTION 41. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1883.

[No. 141, S.] [Published April 5, 1883.]

CHAPTER 184.

AN ACT to revise, consolidate and amend the charter of the city of Neenah, approved March 13, 1873, and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

TITLE 1.

CITY AND WARD BOUNDARIES.

Corporate name.

SECTION 1. All the district of country in the county of Winnebago contained within the limits and boundaries hereinafter described, shall be and

remain a city by the name of Neenah; and the people now inhabiting, and those who shall hereafter inhabit the district of country so described, shall be a municipal corporation by the name of the "city of Neenah," and shall have the general powers possessed by municipal corporations at common law, and in addition thereto shall possess the powers hereinafter specifically granted, and the authorities thereof shall have perpetual succession, shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, in all courts of law or equity, and shall have a corporate seal, and may change and alter the same at pleasure.

City boundaries.

SECTION 2. The territory described as follows shall constitute the city of Neenah, to-wit: All the east half (½), and the east half (½) of the west half (½) of section twenty-eight (28), all of sections twenty-six (26) and twenty-seven (27), and the south half (½) of sections twenty-one (21), twenty-two (22) and twenty-three (23), excepting the west half (½) of the south-west quarter (¼) of section twenty-one (21), all in township twenty (20) north, of range seventeen (17) east, excepting therefrom a strip of land on the north side one hundred feet wide, running from Lake Winnebago west to Commercial street in said city, which said strip shall be and remain a portion of the city of Menasha.

SECTION 3. The said city shall be divided into four (4) wards, as follows:

First ward.

First ward. The first ward of said city shall contain all that portion of said territory lying south of the center line of the south channel of Fox river and east of the center line of Cedar street and La Grange avenue.

Second ward.

Second ward. The second ward of said city shall contain all that portion of said territory lying south of the center line of the south channel of Fox river and little lake Buttes des Morts, west of the center line of Cedar street and La Grange avenue, and east of the east line of L. B. Brien's addition and Cronkhite and Sherry's addition, and including Sherry's second addition to Sherrytown, and the east half (½) of the southeast quarter (¼) of section twenty-eight (28), town twenty (20) north, of range seventeen (17) east.

Third ward.

Third ward. The third ward of said city shall contain all that portion of said territory lying

north and east of the center line of the south channel of Fox river and little lake Buttes des Morts.

Fourth ward. The fourth ward of said city shall contain all that portion of said territory lying south and west of the center line of little lake Buttes des Morts, and west of the west line of the second ward of said city, as above described. Fourth ward.

SECTION 4. The corporate authority of said city shall be vested in one principal officer, styled the mayor, in one board of aldermen, consisting of two aldermen from each ward, who with the mayor, shall be denominated the common council, together with such other officers as are hereinafter mentioned, or may be provided for under this act. Corporate authority. In whom vested.

TITLE 2.

OFFICERS AND ELECTIONS.

SECTION 5. The elective officers of said city shall be a mayor, two aldermen from each ward, constituting the common council, a city treasurer, two assessors, two justices of the peace, one superintendent of schools, and one county supervisor from each ward; and the appointive officers shall be a city clerk, city attorney, chief of police, superintendent of the poor, chief of the fire department, a city surveyor, street commissioner, one school commissioner for each ward, three park commissioners for the city, and as many firemen, policemen and other officers and agents as may be provided for by this act, or as the common council may determine to be necessary. The aldermen and county supervisors shall be elected by the voters of their respective wards; all other elective officers by the voters of the city at large. Elective officers. Appointive officers.

SECTION 6. The annual municipal election in said city shall be held on the first Tuesday in April in each year, at such place in each ward as the common council shall designate, at which time there shall be elected by the qualified electors of said city, in the manner herein provided, all officers required to be elected at such general municipal election. The polls of such election shall be opened and closed at the same hours which are or may be prescribed by law for the opening and closing of the polls at general elections in the state of Wisconsin. Ten days prior to each general municipal election, the mayor shall cause to be published in a newspaper printed Annual election. When held.

in said city a notice, in which shall be stated the officers to be elected, and the time and places of holding such elections.

Terms of office.

SECTION 7. The mayor, treasurer, assessors and supervisors shall hold their respective offices for the term of one year, and until their successors are elected and qualified. The justices of the peace, aldermen and school superintendent shall hold their respective offices for two years, and until their successors are elected and qualified. The terms of office of all elective officers shall commence on the second Tuesday of April, in the year of their election, except the school superintendent, whose term of office shall commence on the first Monday of July, in the year of his election. The school commissioners shall hold their offices for the term of two years from the first Monday in July in the year of their appointment. All other appointive officers, except park commissioners, shall hold their respective offices until the second Tuesday of April next after their appointment, and until their successors are appointed and qualified.

Representation of wards.

SECTION 8. Each of the several wards in said city shall be represented in the common council by two aldermen, who shall be residents and qualified electors in their respective wards, and, except as herein otherwise provided, shall hold their offices for the term of two years, from the second Tuesday in April in the year of their election.

First meeting of common council.

SECTION 9. The first common council, under this act, shall be organized and enter upon its duties, on the second Tuesday of April, 1883, and shall be composed as follows: The aldermen from each ward whose term of office will expire in 1884 shall serve as one of the aldermen from such ward under this act until the end of his said term. At the annual election in 1883, the qualified electors of each ward shall elect one alderman for the term of two years, and thereafter one alderman from each ward shall be annually elected for the term of two years.

What constitutes a vacancy in office.

SECTION 10. If any alderman shall remove from the ward represented by him, or shall engage or continue in any service, business or employment, causing a continuous absence from the city of more than three months, his office shall thereby become vacant, and whenever any vacancy shall in any

manner occur in the office of alderman, or in case of a tie vote, or a failure in making an election, the common council, within ten days after such vacancy shall happen, shall order a special election in such ward to fill the vacancy, of which due notice shall be given, as herein provided for the annual municipal election. This, however, shall not be done unless more than four months of the alderman's term shall then remain unexpired, or more than four months intervene between the occurring of such vacancy and the next general municipal election. In the latter case an alderman shall be elected at such general municipal election to fill the unexpired term.

Vacancies—How filled.

SECTION 11. In case of vacancies in the office of justice of the peace, the same shall be filled at the charter election next ensuing; but the council may, in its discretion, order a special election to fill such vacancy, of which notice shall be given as provided for the general municipal election, and the person so elected shall hold his office for the unexpired term.

Regarding justices of the peace.

SECTION 12. Two justices of the peace shall be elected at the charter election in 1883. The justices of the peace of the several wards of said city, and the justice of the peace at large for said city, now in office, shall hold their respective offices until the expiration of the terms for which they were elected; and upon the completion of such terms the said offices shall be and are hereby abolished. Each of said justices shall thereupon transmit to the nearest justice elected under this act all the books and papers relating to his office, and all the dockets in his possession as such justice, and the justice receiving the same shall be deemed the successor in office of the justice whose docket he shall receive, for the purpose of trying and determining any action then pending, and of issuing execution on any judgment or transcript of any judgment appearing on such docket. In case at any time neither of the justices provided for in this act shall be able for any cause to discharge the duties of his office, any justice of the peace of the county of Winnebago is authorized to take jurisdiction of any matter or proceeding, original jurisdiction of which is conferred upon the justices provided for in this act.

Common council may elect certain officers.

SECTION 13. All officers of said city not declared elective by this act, and all other officers

necessary for the proper management of the city affairs, shall be elected by the common council. All elections by the common council shall be by ballot, and a majority of the votes of the aldermen entitled to seats in the council shall be necessary for a choice. In case of an equal division the mayor may give the deciding vote.

Election to be by ballot.

SECTION 14. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. All qualified electors of this state, and who shall be residents of the ward where they offer to vote, shall be entitled to vote for any officer to be elected under this act, and qualified to hold any office hereby created.

Inspectors of election. How appointed.

SECTION 15. Inspectors and clerks of election for each ward of said city shall be appointed in such manner as now is, or hereafter may be provided by the general laws of the state of Wisconsin; and such inspectors and clerks shall act as inspectors and clerks of all municipal elections in their respective wards. All general laws of the state relative to filling of vacancies in office of inspectors and clerks of elections in cities shall be applicable to all municipal elections in said city; and when any inspector or clerk of election shall be a candidate for any municipal office, his place shall be filled in the same manner as if a vacancy had otherwise occurred.

Penalty for illegal voting.

SECTION 16. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if any vote shall be challenged by an elector, the inspectors, before receiving the vote of such person, shall require him to take the following oath, which either of said inspectors is hereby authorized to administer: "You do solemnly swear (or affirm) that you are twenty-one years of age; that you are a citizen of the United States (or have declared your intentions to become a citizen, conformably to the laws of the United States on the subject of naturalization), that you are a resident of this ward; that you have been a resident of this state for one year immediately preceding this election, that you have not voted at this election, and that you have made no bet or wager, and have not become directly or indirectly interested in any bet or wager depending on the result of this election. If the person so offering to vote shall take such oath, his vote shall be received; if not, it shall be

rejected. If such person shall take such oath or affirmation falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof, shall suffer the punishment provided by law for persons guilty of perjury.

Penalty for illegal voting.

SECTION 17. If any person who is not a qualified voter shall vote at any election, or if a person qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine not exceeding one hundred (100) dollars, nor less than twenty-five dollars ($25) or imprisonment in the county jail not more than six months, or both, in the discretion of the court.

Shall keep a list of challenged votes.

SECTION 18. It shall be the duty of the inspectors to keep a list of the names of all persons whose votes shall be challenged as aforesaid, and who shall swear in their vote; and if any inspector shall knowingly receive the vote of any person not authorized to vote, or shall make out false returns for an election, or if any clerk shall knowingly fail to write down the name of every voter as he votes, or shall wilfully make untrue or incorrect counts and tallies of votes, such inspector or clerk shall be liable to prosecution therefor, and on conviction thereof, shall be punished by a fine not exceeding one hundred dollars ($100) nor less than twenty-five (25) for each offense, or imprisonment in the county jail not exceeding six months, or both, in the discretion of the court.

Votes. How counted.

SECTION 19. When the election shall be closed, the number of votes cast for each person voted for shall be counted, and the inspectors shall then publicly declare the result and make returns thereof, stating therein the number of votes cast for each person for any office, and shall deliver or cause to be delivered, such returns to the city clerk within twenty-four hours after the closing of the polls, with the defective ballots cast, if any, at such election, enclosed in a sealed envelope. The second day after any election, at 7½ o'clock P. M., the common council shall meet at their usual place of meeting and canvass such returns, and declare the result as it appears from the same, and the clerk shall forthwith give notice of his election to each officer elected.

Proceedings in case of a tie vote.

SECTION 20. In case of a tie vote, or a failure in making an election of an officer to be elected by the people, or when any officer elected or appointed for the city, or any ward thereof, shall remove his residence without the limits of the city, or when any officer elected by the people for any ward of the city, shall remove his residence without the limits of such ward, or when any such officer shall neglect or refuse to qualify within ten days after his election, the office shall be deemed vacant. Whenever a vacancy shall occur from any cause in any elective office, except aldermen and justices of the peace, the common council shall, within ten days after the occurrence of such vacancy, elect by ballot a person to fill such vacancy, who shall possess the qualifications required for the holding of such office, and who shall hold his office until the next general municipal election, and until his successor is elected and qualified. If the term of office in which the vacancy shall have occurred shall not expire on the next Tuesday following such election, a qualified person shall be elected at such election to fill the unexpired term in which the vacancy occurred. But the provisions of this section shall not apply to vacancies in the offices of justices of the peace or aldermen.

Regarding special elections.

SECTION 21. Special elections by the people to fill vacancies, or for any other purpose, shall be held and conducted by the inspectors and clerks of election of the several wards in the same manner, and canvassed by the council within the time prescribed for the annual municipal election.

Term of office.

SECTION 22. Every person elected or appointed to fill a vacancy, shall hold his office and discharge the duties thereof for the unexpired term with the same rights and subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Term of office.

SECTION 23. All the officers now in office in said city, whether elective or appointive, shall hold their respective offices until the expiration of the term for which they were elected, and until their successors shall be chosen and qualified as by this act provided.

Penalty for failure to deliver.

SECTION 24. If any person, having been an officer of said city, shall not, within ten days after demand, deliver to his successor in office all property, money, books, papers and effects of every

description belonging to said city, or pertaining to the office he may have held, he shall forfeit and pay one hundred dollars ($100), besides all damages caused by his neglect or refusal so to deliver, and for such damage he and his bondsmen shall be liable as for a breach of his official bond, and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Who are officers of the peace.

SECTION 25. The mayor, sheriff or deputy sheriff of Winnebago county, each and every alderman, justice of the peace and policeman, shall be officers of the peace, and suppress in a summary manner all rioting or disorderly behavior within the limits of the city, and for such purpose shall have the same powers to call upon others for assistance as is herein conferred upon the chief of police of said city. And all policemen appointed by the council or the mayor as herein provided, shall have and may exercise all the powers of constables under existing laws.

Aldermens' compensation for services.

SECTION 26. Each alderman shall be entitled to receive a compensation of fifty (50) cents for each and every attendance upon meetings of the council during his term of office, and also compensation for all other actual services rendered the city. The mayor shall receive fifty dollars ($50) per year.

Common council shall not be interested in any contract.

SECTION 27. No member of the common council shall be directly or indirectly interested in any contract made with or in behalf of said city, and no officer of said city shall directly or indirectly purchase or be interested in the purchase of any city or school order or certificate of indebtedness for less than the face thereof. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars ($100), or imprisonment in the county jail for not more than six months, or both, in the discretion of the court.

Compensation of officers.

SECTION 28. The city treasurer shall receive the compensation provided for in this act and no more. The superintendent of schools shall receive a compensation of two hundred dollars ($200) per annum. The assessors and members of the board of review, inspectors and clerks of election shall receive two dollars ($2.00) per day for each day's actual service in such capacity. Al

other officers of said city, whose compensation is not herein expressly prescribed, shall receive such compensation as the common council shall prescribe, not exceeding to the city clerk six hundred dollars ($600), to the city attorney three hundred dollars ($300), to the chief of police seven hundred dollars ($700), to the poor commissioner two hundred dollars ($200) per annum, and to the street commissioner two dollars and fifty cents ($2.50) per day for each day's actual service. The salaries of these officers shall be fixed within one month after their election and shall not be increased or diminished during their term of office, and unless otherwise ordered by the council, shall be paid monthly.

TITLE 3.

QUALIFICATION OF OFFICERS AND THEIR DUTIES.

Shall take the oath of office.

SECTION 29. Every person elected or appointed to any office under this act shall, before he enters upon the duties of his office, take and subscribe the oath of office prescribed in the constitution of this state, and file the same, duly certified by the officer administering the same, with the city clerk; and the treasurer, chief of police, street commissioner, and such other officers as the common council may direct, shall each before entering upon the duties of his office, execute to the city a bond with two or more sureties, the aggregate amount of whose property within this state, over and above all their respective debts, exemptions and liabilities, as shown by their several and respective affidavits attached to such bond, shall be double the penalty named therein, and such bonds shall be in such form and for such penalties and contain such conditions as the common council may deem proper, and shall be approved by the said council, and the common council may, from time to time, require new or additional bonds, and remove from office any officer neglecting to give the same when required. All official bonds executed to the city of Neenah shall be filed with and safely preserved by the city clerk in his office, unless the common council shall otherwise direct.

Bond. How witnessed and acknowledged.

SECTION 30. The bond of the city treasurer shall be duly witnessed and acknowledged, and shall be recorded in the office of the register of deeds for

the county of Winnebago, and a duly certified transcript of the record of such bond from the office of said register of deeds, shall have the same force and effect as evidence in all courts and places as the original bond.

Duties of mayor.

SECTION 31. The mayor shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. When present, he shall preside at the meetings of the common council, and shall vote therein on an equal division of the members present. The mayor shall be the chief executive officer of the city, and may appoint as many special or temporary policemen to serve on election days, or other unusual occasions, as he may deem expedient. Such appointments shall be in writing, and shall specify the time the person so appointed shall serve, and shall be filed with the city clerk.

Shall choose a president.

SECTION 32. The common council shall, at the first meeting for organization, each year, after the annual election, choose by ballot, from their number, a president, who shall preside over their meetings, in the absence of the mayor, and in case of vacancy in the office of mayor, or his inability to act, either by reason of absence, sickness or other cause, the president of the council shall have and exercise all the powers and discharge all the duties of mayor until the mayor shall resume his office, or the vacancy be filled by a new election.

Election of temporary presiding officer.

SECTION 33. In case both mayor and president shall be absent from any meeting of the council, it shall proceed to elect a temporary presiding officer from its number, who, for the time being, shall discharge the duties of mayor.

Duties of city clerk.

SECTION 34. The city clerk shall keep the corporate seal and all papers and records of the city. It shall be his duty to attend all meetings of the common council, and to keep a full record of their proceedings. The records of the common council kept by him shall be evidence in all legal proceedings and copies of all papers filed in his office, and transcripts from the records, certified by him, under the corporate seal, shall be evidence in like manner as if the originals were produced. He shall keep a full and accurate account of all certificates

of appropriations and orders drawn on the city treasurer, in a book provided for that purpose, and shall also keep an accurate account with the treasurer, and charge him with all sums of money properly collectible by such treasurer. Whenever the clerk shall be absent from any meeting, the council may appoint from their number a clerk *pro tem.*, who, for the time being, shall discharge the duties of clerk. The city clerk shall have power and authority to administer oaths, and affirmations and take acknowledgments of deeds and other instruments. The city clerk may, with the consent of the council, appoint a deputy, and such deputy shall possess all the powers and may discharge all the duties of clerk, but shall receive no compensation from the city.

Duties of city treasurer.

SECTION 35. The city treasurer shall collect all moneys properly payable into the treasury, except as herein otherwise provided, and keep a detailed account of the same together with a detailed account of all disbursements in such manner as to show the source of all receipts and the time when received and on account of what fund and the amount of each disbursement, and for what purpose and from what fund paid. He shall report to the common council as often as required: and annually, at least ten days before the annual election, give a full and detailed account of all receipts and disbursements after the last annual report, and also the state of the several city funds. His books shall be open at all times to the inspection of the council. He shall collect all city taxes and collect and return the state and county taxes in said city in the manner prescribed by the general laws of Wisconsin relating to the collection of taxes by town treasurers, except as otherwise provided in this act, and shall have, in addition to the powers herein specifically conferred, all the powers of town treasurers for the collection of taxes and all general laws of the state relative to collection of taxes, shall apply to and be in force in said city, except as otherwise expressly provided in this act.

Duties of assessor.

SECTION 36. The assessor shall assess all the taxable property in said city, and shall make out the annual assessment roll for the said city in accordance with the general laws of the state relating to the assessment of property, and the duties

of assessors; and said assessment roll shall be equalized and notice thereof given at the time and in the manner required by law, and all the general laws of the state applicable to the composition of boards of review for the equalization of taxes in cities shall be in force and apply to said city. Immediately after such assessment roll is equalized the same shall be verified by oath of each said assessors as required by law, and the assessment roll deposited in the office of the city clerk.

Duties of attorney.

SECTION 37. The city attorney shall conduct all law business of said city and the departments thereof, and all other business in which the city shall be interested, and when requested by the mayor or council he shall furnish written opinions on subjects submitted to him in which the city or any departments thereof, may be interested. It shall also be his duty to draft all ordinances, bonds, contracts, leases, conveyances, and such other instruments in writing as may be ordered by the common council, and to perform such other duties as may be prescribed by the ordinances of the city or by any resolution of the common council.

Duties of chief of police.

SECTION 38. The chief of police shall have the general supervision of all the police force of said city, and be specially charged with the preservation of the peace and the enforcement of the ordinances within the said city. He shall give a bond in such penalty as the council may prescribe, which shall not be less than one thousand dollars ($1,000), and shall contain conditions similar to those required by law of constables. He shall possess the powers, enjoy the privileges and be subject to the liabilities conferred and imposed by law upon constables, and be taken as included in all writs and papers addressed to constables. It shall be his duty to obey all lawful orders of the common council, to arrest with or without process, and with reasonable diligence to take before one of [the] justices of the peace, every person found in such city in a state of intoxication, or engaged in any disturbance of the peace or violating any law of the state or ordinance of said city. He may command all persons present in such case to assist him therein, and any person refusing to assist him when requested, shall forfeit the sum of ten dollars ($10). He shall be en-

titled to the same fees allowed to constables for similar services, except that he shall receive no fees for services performed for said city, but shall be paid such salary as the common council shall fix.

Duties of supervisors.

SECTION 39. The supervisors shall represent their respective wards in the county board of Winnebago county, and perform the duties required of them by law as members of the said county board.

Duties of justices of the peace.

SECTION 40. The justices of the peace shall each execute and file with the city clerk a bond, the same as required by law of town justices. Each of such justices shall have concurrent jurisdiction and power throughout said county with other justices of the peace, and shall have and possess all the power conferred upon justices of the peace under the general laws of the state; and shall be taken as included by that designation in any general law relative to justices of the peace. Each justice shall quarterly report to the common council, a list of all proceedings instituted before him on behalf of the city, and the disposition thereof, and shall, at the same time account to, pay over to the treasurer, all penalties which may by law accrue to the city, and annex the treasurer's receipt therefor to his report. Said justices shall account to the county treasurer for all fines collected for violations of the general laws of the state or of acts hereby declared misdemeanors, in the manner that other justices of the peace are required to do by law.

Duties of street commissioner.

SECTION 41. The street commissioner shall have the general supervision of the streets, sidewalks, crosswalks, alleys, gutters and sewers within said city. He shall give a bond to said city in such penalty as the common council may direct, conditioned for the faithful discharge of his duties as such officer, and for the payment to the city treasurer of all moneys coming into his hands belonging to the city within the time required by law. He shall collect the poll tax provided for by this act, and pay the money received therefor to the city treasurer, on or before October 1st, in each year, and at the next council meeting shall report to the council the names of all persons liable to pay such tax, whose tax remains unpaid, and shall annex to such report the treasurer's receipt for the amount paid him. He shall

perform such other duties as the council may from time to time require, and shall, monthly, report to the council the amount of labor and material expended upon the streets, etc., of said city, at what expense, and where and for what purpose used.

Duties and powers of poor commissioner.

SECTION 42. The poor commissioner shall have the same powers and shall perform the same duties as overseers of the poor of the several towns, under the general laws of the state; provided, however, that he shall keep such accounts as the council may direct, and at all times be subject to and obey all orders and resolutions of the common council concerning his duties, and shall report from time to time as the council shall direct.

Board of park commissioners.

SECTION 43. There shall be elected by the first common council organized under this act as other officers are elected, and as soon as practicable, a "board of park commissioners," which shall consist of three members, one of whom shall be elected for the term of three years, one for two years, and one for one year, and annually thereafter the council shall elect one commissioner to serve on such board for three years. The board of park commissioners shall have the care and management of the public parks of said city, and all the improvements made on the same. Such board shall not expend in the management or improvements of such parks more than two hundred dollars ($200) in any one year, unless by and with the consent of the council. But the council shall not authorize the expenditure of more than five hundred dollars ($500) on the city parks in any one year. The park commissioners shall receive no compensation from the city. All bills contracted by such board within the limits above fixed shall be audited and paid by the council.

TITLE 4.

THE COMMON COUNCIL; ITS GENERAL POWERS, ETC.

Common council.

SECTION 44. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The common council of the city of Neenah, do ordain," etc. The common council shall hold stated meetings at such time and place as it shall appoint, and may adjourn from time to time as it deems proper. Five aldermen shall constitute a quorum for the transac-

tion of business, but a smaller number may adjourn to a set time.

Duties of mayor.

SECTION 45. The mayor or president of the council may call special meetings, by notice to each member, to be served personally, or left at his usual place of abode. In case of the absence of the mayor and president, three aldermen may call a special meeting.

Government of common council.

SECTION 46. The common council shall determine the rules for its own government and proceedings, which shall not be inconsistent with this act. Its sessions shall be public; the council shall be the judge of the election and qualification of its own members, and may prescribe penalties enforceable against its members or other persons present at its meetings for disorderly conduct, or violation of its rules, such penalties to be enforced or collected as other fines and penalties under this act.

May compel the attendance of its members.

SECTION 47. The council may compel the attendance of its members upon its sessions, and employ the police of said city for that purpose; and may punish any member for failure so to attend, or for any wilful neglect of duty as before provided for disorderly behavior. The ayes and noes may be required by any member upon any question, and all votes upon the passing of ordinances, and upon all resolutions for levying or assessing taxes, or for the appropriation or disbursement of money, or creating any liability or charge against said city, or any fund thereof, shall be taken by ayes and noes, and be entered in the proceedings of the council, and a majority of all the aldermen elect shall be necessary for the passage thereof.

Shall have management and control of finances.

SECTION 48. The common council shall have the management and control of the finances and of all the property of said city, except as herein otherwise provided, and shall, in addition to all other powers herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules, by-laws and regulations for maintaining the government and good order of the city, for the benefit of the trade, commerce and health thereof, for the suppression of vice and prevention of crime, for the protection of persons and property, and for carrying into effect the powers vested in said common council, as it shall

deem most expedient. It shall have power to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules, regulations or by-laws; and such ordinances, rules, by-laws and regulations are hereby declared to be and to have the force of law; provided, that they are not repugnant to the constitution or laws of the United States or of this state. For these purposes the common council shall have authority, by ordinances, resolutions, rules, by-laws or regulations:

Regulate and license taverns, saloons, etc.

1. To regulate taverns, victualing houses, saloons, gardens, and all other places within said city where wine, beer or other liquors are sold to be drank on the premises; and to license, regulate and restrain tavern keepers, keepers of ordinaries, saloons, victualing houses, or other houses or places, or the selling or giving away of spirituous, vinous or fermented liquors, and to restrain any person from giving away or dealing in spirituous, vinous or fermented liquors, unless duly licensed by authority of the common council; and prescribe the hours within which such places may be kept open. The license fee for the sale of vinous, spirituous, fermented or malt liquors shall be seventy-five dollars ($75) per annum, and the license shall date from the filing of the application, and remain in force until the fifteenth day of April next after their issue unless sooner revoked by the council. If any license be granted more than six months prior to its expiration, the full annual license shall be paid; if less than six months, one-half the same. Every applicant for such license shall, at the time of filing his application, file the bond prescribed by section 1549 of the revised statutes, and also the receipt of the city treasurer, showing the payment to him of the license fee; and in case such application be refused, such license fee shall be immediately returned to the applicant. All general laws of the state, relative to excise and the sale of intoxicating liquors, and especially the provisions of chapter 66 of the revised statutes, shall apply to and be in force in said city, except as otherwise expressly provided in this act.

Billiard tables.

2. To tax, license, regulate, suppress or prohibit the keeping of billiard tables, bagatelle, pigeon hole tables, bowling or ten pin alleys, for

purposes of gain, and prescribe the hours within which the places where the same are kept may be opened.

Common showmen.

3. To license, regulate, suppress or prohibit all exhibitions of common showmen, shows of any and every kind, concerts or other musical entertainments by itinerant persons or companies, exhibitions of natural or artificial curiosities, caravans, circuses, exhibitions and amusements.

Restrain gaming.

4. To restrain and prohibit all descriptions of gaming and fraudulent devices and practices, and all playing of cards, dice and other games of chance for the purpose of gaming in said city, and to restrain and prohibit the keeping open of groceries, shops, stores, saloons, halls, parks, gardens, and all places of amusement or business on Sunday, in said city, and to prohibit the performance of all secular business on that day.

Riots, etc.

5. To prevent any riots, noise, disturbance or disorderly assemblages; to suppress and restrain disorderly houses and houses of ill-fame; and to authorize the destruction of all instruments and devices used for the purpose of gaming.

Nauseous places.

6. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, hog-pen, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as often as it may be necessary for the health and comfort or convenience of the inhabitants of said city.

Unwholesome business.

7. To regulate and direct the location and management of breweries, tanneries and packing houses, and to direct the location, management and construction of, and regulate, license, restrain, abate or prohibit within the city, distilleries, slaughtering establishments for steaming or rendering lard, tallow, offal, or such other substances as can or may be rendered, and all establishments or places where any nauseous, offensive or unwholesome business may be carried on.

Public markets.

8. To establish and regulate public markets, determine their location and make rules and regulations for the government of the same, and to restrain sales on the streets; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

9. To control and regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, fruit, eggs and other provisions in the city; and to cause the seizure and destruction, or other disposition of tainted or unwholesome meat, butter, vegetables, fruit or provisions. Butchers.

10. To direct or prohibit the location and direct the management of houses for the storing of gunpowder or other combustible and dangerous materials in the city. Gunpowder.

11. To regulate and restrain the keeping or conveying of gunpowder and other combustible or dangerous materials, and the use of candles or lights of any description in barns, stables and outhouses. Conveying of gunpowder.

12. To prevent the shooting of firearms or fire crackers within said city, or fishing from any bridge, street, alley or sidewalk, and to prevent the exhibition or use of any fireworks at any time or in any situation which may be considered, by the council, dangerous to the city or to any property therein, or annoying to any citizen thereof. Firearms and crackers.

13. To prevent, in any manner whatever, the encumbering of the streets, lanes, alleys, sidewalks, public grounds, wharves and docks with carriages, carts, wagons, drays, sleighs, sleds, wheelbarrows, boxes, lumber, firewood, timber, posts, signs, awnings, or any substance or material whatsoever. Encumbering of streets.

14. To prevent horse racing, immoderate riding or driving in the streets, and to compel persons to fasten their horses, oxen or other animals, attached to vehicles, or otherwise, while standing or remaining in any street, alley or public place. Horse racing.

15. To regulate and determine the times and places of bathing or swimming in the rivers or other waters in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure or conduct. Bathing and swimming.

16. To restrain and punish vagrants, mendicants, beggars and prostitutes, and to restrain drunkards, immoderate drinking or obscenity in the streets, saloons and all other public places within said city, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same. Vagrants and beggars.

17. To restrain, regulate or prohibit the running at large or feeding in the streets, parks or uninclosed grounds within said city, of cattle, Restrain cattle.

horses, mules, swine, sheep, goats, poultry, geese, etc., and to authorize the distraining, impounding and sale of the same, for the penalty incurred and the costs of the proceedings; and also to impose penalties on the owners of any such animals for a violation of any ordinances in relation thereto.

Dogs. 18. To prevent the running at large, of dogs in the said city, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Licensing of dogs. 19. To provide for licensing the keeping of dogs in said city at a rate of not less than one (1) nor more than five dollars ($5) a year for each dog, and to provide for a badge or token to be carried by each licensed dog. To provide also for the secure muzzling of licensed dogs, and for the killing and destruction in a summary manner of all dogs not licensed wherever the same may be found in the city (whether owned therein or not), and of licensed dogs running at large in said city contrary to the ordinances, and to punish persons keeping unlicensed dogs.

Hackmen etc. 20. To license and regulate hackmen, draymen, cartmen, porters, omnibus drivers, cabmen, carmen, and all others, whether in the permanent employment of any person or corporation or otherwise, who may pursue like occupations with or without vehicles; also to license and regulate bill posters and prescribe the places where bills may be posted.

Rolling of hoops, etc. 21. To regulate and prohibit the rolling of hoops, flying of kites, playing of ball, riding of bicycles, velocipedes and the like, or other amusements or practices having a tendency to annoy persons passing in the streets or on the sidewalks, or to frighten teams and horses.

Infectious diseases. 22. To prevent the entrance into said city of persons or articles supposed to be infected with contagious diseases and to make such disposition of the same as is deemed best to preserve the health of said city. Also to make regulations to prevent the introduction of contagious diseases into the city, or their spread therein; and to make quarantine laws and regulations and enforce the same within the city.

Boards of health. 23. To abate all nuisances which are or may be injurious to the public health in any manner they may deem expedient, and to do all acts and make

all regulations which may be necessary or expedient for the preservation of health and the prevention and suppression of disease.

Cemetery grounds.

24. To provide for and hold cemetery grounds for the burial of the dead, and to improve, protect and regulate the same, dispose of burial lots therein at such price per lot as shall be established by said common council, to make conveyances therefor in the name of said city, such conveyances to be signed by the mayor and clerk of said city. The council shall have power to construct and keep in repair any sidewalk or public highway leading from the corporate limits of said city to any such cemetery grounds. To regulate the burial of the dead, and registration of births and deaths; to direct the returning and keeping of bills of mortality, and to impose penalties on physicians, sextons and others for failure to comply with such requirements; also to provide for and hold grounds for the interment of dead animals.

Nuisances.

25. To abate and remove all nuisances under the ordinances or at common law, and punish the authors thereof by penalties, fine and imprisonment; to define and declare what shall be deemed nuisances, and to authorize and direct the summary abatement thereof; but nothing in this act shall be construed so as to oust any court of its jurisdiction to abate and remove nuisances in the street, or any other part of said city or within its jurisdiction, by indictment or otherwise.

Unwholesome substances.

26. To prevent any person from bringing, depositing or having within the limits of said city, any putrid carcass or unwholesome substance, and to require the removal or destruction of the same by any person, who shall have upon or near his premises any such substance, or any putrid or unsound beef, pork, fish, hides or skins of any kind, and on his default to authorize the removal or destruction thereof by some officer or officers of the city at such person's expense.

Pest houses.

27. To erect or establish one or more pest houses, hospitals or dispensaries, and to control and regulate the same.

Ringing of bells.

28. To prevent the ringing of bells, blowing of horns or bugles, crying of goods, and all other noises, performances and devices tending to the collection of persons on the streets or sidewalks,

by auctioneers, hawkers, peddlers or others, for the purpose of business, amusement or otherwise.

Steam whistles. 29. To control, regulate or prohibit the use of steam whistles within the limits of the city.

Snow and dirt. 30. To compel owners or occupants of buildings or grounds to remove snow, ice, dirt or rubbish from the sidewalk, street or alley opposite thereto, and keep them clean therefrom, and to compel such owners or occupants to remove from the lots owned or occupied by them, all such substances as the health officers of the city shall direct; and on their default, to authorize the destruction or removal thereof, by some officer of the city, at the expense of such owners or occupants.

Repair of streets. 31. To control, regulate, construct, repair, and clean the streets, alleys, bridges, sidewalks and crosswalks of the city, and provide for sprinkling the streets. To open, widen, straighten and vacate streets and alleys, and establish and alter the grade thereof, and to regulate the manner of using the streets and pavements, and to protect the same from injury.

Riding and driving on sidewalks. 32. To prevent all persons from riding or driving any horse or other animal on or across the sidewalks in said city, or in any way doing damage to such sidewalks.

Pounds. 33. To make, establish and regulate public pounds, pumps, wells, cisterns and reservoirs.

Lighting of streets. 34. To erect lamps and regulate the lighting thereof; and to provide for lighting the streets, public grounds and buildings with gas or otherwise.

Weights and measures. 35. To require every merchant, retailer, trader or dealer in merchandise or property of any description which is sold by measure or weight, to cause his weights and measures to be sealed by the city sealer, and to be subject to his inspection, and to provide for the punishment of persons using false weights and measures. The standards of such weights and measures shall be conformable to those established by law in this state.

Hay and fuel. 36. To regulate the weighing and sale of hay, and the places and manner thereof; to regulate the cutting and sale of ice, and to restrain the selling of such ice as is impure; also to regulate the sale of wood, the weighing and selling of coal and lime, and the places and manner thereof; and to appoint suitable persons to superintend and con-

duct the same, and to define their duties and powers.

37. To regulate the times, places and manner of holding public auctions and vendues. Public auctions.

38. To tax, license and regulate auctioneers, distillers, brewers and pawn-brokers, and all keepers of junk-shops and places for the sale or purchase of second-hand goods, wares or merchandise; to regulate hawkers, peddlers, runners or solicitors for boats, cars, railroads, stages, public houses and other establishments; also to tax, license, or regulate keepers or proprietors of gift stores, concerts, or other gift enterprises; to fix and regulate the amount to be paid for licenses under this sub-division, and to prescribe the time for which such licenses shall be granted; to provide and enforce penalties for carrying on any of said trades, kinds of business or employments without license, and to regulate the manner in which they shall be carried on. No such license shall be for a longer time than one year, and the amount of such license shall not be less than at the rate of ten dollars ($10) per year, nor more than at the rate of five thousand dollars ($5,000) per year, for the carrying on of either of said trades, kinds of business or employment, and to prohibit sales on the streets. Auctioneers.

39. To regulate or prohibit the keeping of any lumber yard, or the placing, piling or selling of lumber, timber, wood or other combustible material within the fire limits of said city. Lumber yards.

40. To regulate the measuring and inspecting of lumber, shingles, timbers, posts, staves and heading, and all building materials, and to appoint one or more inspectors. Lumber inspecting.

41. To provide for the inspection and regulation of stationary steam engines and boilers. Engines and boilers.

42. To appoint inspectors and weighers and regulate their duties and prescribe their fees. Weights.

43. To establish and regulate public pounds. Pounds.

44. To require railroad companies to station flagmen at street crossings. Flagmen.

45. To appoint watchmen and policemen, and regulate the police and prescribe their duties. Watchmen.

46. To compel the owners or occupants of houses, or stores or other buildings in said city, to number the same in such manner as the common council may from time to time prescribe. Numbering houses.

47. To direct and regulate the planting and Ornamental trees.

preserving of ornamental trees in the streets and public grounds.

Bridges. 48. To construct bridges and keep the same in repair.

Waters within the city. 49. The common council shall have jurisdiction over the entire waters within the city, and have power to prevent any deterioration of the waters, or any nuisance being cast therein, by which the health of the inhabitants of the city, or the purity of the water, or its usefulness for hydraulic purposes shall be impaired; and to declare all unlawful obstructions of the rivers in said city nuisances, and to provide for the abatement of the same, and punish violations of the ordinances relative to the waters in said city.

Set out trees. 50. To compel the owner of any lot or grounds in said city to set out shade or ornamental trees in the streets or street in front of, or bounding such lot or grounds, and in default thereof, to cause the same to be done, and levy a special tax upon such lot or grounds, to pay the expense thereof, in whole or in part.

Public parks. 51. To purchase, hold, improve and otherwise control the use and management of public parks, and make such regulations for the care and protection of the same, and of all property of said city, as it may deem necessary.

Sprinkling and cleaning streets. 52. To provide for sprinkling, cleaning or sweeping any of the streets of the city, in whole or in part, at the expense of the lots abutting on such streets, and to provide for the collection of the amounts chargeable to such lots therefor, by the levy of a special tax on such lots, or otherwise.

Care of destitute children. 53. To authorize the taking up of all children who are destitute of proper parental care, or growing up in mendicancy, ignorance, idleness or vice, to provide for their safe keeping and education for such periods of time as may be deemed expedient.

Vagrants. 54. To authorize the arrest, fine and imprisonment, as vagrants, of all persons who, not having visible means of support, are without employment, loitering about said city, frequenting drinking saloons, houses of ill fame, gambling houses, railroad depots or fire engine houses, or who shall be found trespassing, in the night time upon the private premises of others; and also of all persons who shall have in their possession any gaming device or article or thing used for

obtaining money under false pretenses, or who shall disturb any place where public or private schools are held, or places where religious worship is held, or any lawful assemblage is convened.

Minors.

55. To prevent minors from going upon or being on any railroad track in said city, except at the regular street crossings; and to prevent minors from playing in the streets of said city, or catching or attempting to catch upon any vehicle while in motion in any streets or alleys of said city.

Construction of buildings.

56. To control and regulate the construction of buildings, chimneys and smoke-stacks and to prevent and prohibit the erection or maintenance of any insecure or unsafe building, smoke-stack, wall or chimney, and declare them nuisances, and provide for their summary abatement. Also to prohibit the use of any hall, theater, opera house, church, school or other building for public gatherings which are unsafe or not provided with suitable and sufficient means of exit in case of alarm.

Riding on bridges.

57. To prohibit the riding or driving on any of the bridges in said city faster than a walk.

Water works.

58. To provide for, erect and control water works for the supply of water to the inhabitants of said city.

Survey of city.

59. To authorize or adopt any general survey of the city or part thereof, and to cause to be recorded in the office of the register of deeds of Winnebago county any map embracing such survey as the recorded map of said city, and in the assessment of property in said city and in all proceedings for collection of taxes appropriate reference to such map shall be sufficient description.

Change names of streets.

60. To alter or change the name of any street, alley, or public ground within said city; to alter or change or subdivide the recorded plat or any part thereof surveyed, platted or recorded in the office of the register of deeds of Winnebago county, such change to represent subdivisions made by deed subsequent to the date of the plat; to cause all out and in lots within said city containing ten acres or less that have not been platted or recorded to be so platted and recorded.

May offer a reward.

61. Whenever any grave or heinous crime shall have been committed in said city against life or property, the mayor, with the concurrence of the common council, may offer a reward for the arrest and conviction of any of the perpetrators of such

offense; provided, that such reward shall in no case exceed five hundred dollars ($500). The city shall be liable for the payment of such reward according to the terms of such offer.

Pardon power.

62. To confer upon the mayor of said city power to pardon persons convicted of offenses under the ordinances, under such restrictions as it may deem proper.

In case of failure to comply with above sections.

SECTION 49. In all cases where, by the preceding section or otherwise, authority is conferred upon the common council to compel, prohibit or prevent the doing of any act or thing, the common council shall have power to provide for the punishment of any and all persons failing to comply with the rules, regulations or ordinances of said city, lawfully made in pursuance of such powers, by fine or imprisonment, or both. In no case shall the fine exceed one hundred dollars ($100), or the term of imprisonment exceed six months. All violations of the laws, rules, regulations, resolutions or ordinances so passed shall, and the same are hereby declared to be misdemeanors, and except as otherwise provided by law or the common council, shall be punished by fine not exceeding twenty-five dollars ($25), or imprisonment in Winnebago county jail for a term not exceeding thirty days, or both, in the discretion of the court. In all prosecutions where the offense is hereby declared to be a misdemeanor, when a fine is imposed as the whole or any part of the punishment for such offense, the court shall also sentence the defendant to pay the costs of prosecution, and to be committed to the county jail of Winnebago county until the fine and costs are paid or discharged; but the court shall limit the time of such imprisonment in each case, in addition to any other imprisonment, in its discretion, in no case, however, to exceed six months, and the court may also issue an execution against the property of the defendant for said fine and costs.

Ordinances.

SECTION 50. All laws, rules, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of all the aldermen entitled to seats in the council, and shall be signed by the mayor, and shall be published in the official paper of said city, or in book form, as hereinafter provided, before the same shall be in force. Within fifteen days after such publication they shall be recorded by the city clerk in books

provided for that purpose, but before being so recorded, the publication thereof shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times and in all places such record shall be deemed *prima facie* proof of the passage of such resolution, ordinance, regulation or by-law, and of its publication.

Majority vote must be had.

SECTION 51. No ordinance shall be passed, no appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against said city, or a charge upon any fund thereof, shall be adopted without a vote in its favor of a majority of all the aldermen entitled to seats in said council, which vote shall be taken by the ayes and noes, and entered in the proceedings of the council, and when the grade of any street shall have been established by ordinance, and such street shall have been made to conform to such grade under the direction of the proper authorities of said city, such grade shall not thereafter be changed without a vote of two-thirds of all the aldermen, including the votes of all the aldermen representing the ward or wards in which such change is proposed to be made in favor thereof. In every such case the votes shall be taken by ayes and noes and entered in the minutes.

Work of committees.

SECTION 52. All ordinances, petitions and communications to the common council, and all accounts and resolutions appropriating money, or creating any charge against any of the funds of said city, shall be referred to appropriate committees, and shall only be acted upon at a subsequent meeting not held on the same day, unless by consent of all the aldermen present. Action upon any report of a committee shall be deferred to the next regular meeting of the council at the request of three aldermen. But the same matter shall not be deferred more than once under this provision.

Reconsidering votes.

SECTION 53. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as when such vote was taken, and no business shall be transacted at any special meeting except that named in the notice calling such meeting.

Mayor to approve ordinances, etc.

SECTION 54. Every act, ordinance, by-law, regulation, resolution or appropriation which shall have been passed by the council, and to which the signature of the mayor is required, shall be presented by the city clerk to the mayor for his approbation. If he approve, he shall sign it, if not, he shall return it within five days with his objection stated in writing, to the city clerk, and the clerk shall submit such objections to the common council at their next regular meeting thereafter; such objections shall then be entered in the minutes, and the council shall proceed to reconsider the matter. If after such reconsideration three-fourths of the aldermen entitled to seats in the council shall vote to pass such act, ordinance, resolution, by-law, regulation or appropriation, it shall take effect and be in force without the mayor's signature or approval, and the clerk shall attach thereto a certificate showing the manner of its passage and acquiring validity. If the mayor shall not return any act, ordinance, by-law, regulation, resolution or appropriation so presented to him within five days thereafter, it shall take effect in the same manner as if he had signed it; and if it shall not receive his signature, the clerk shall attach thereto a certificate showing the manner it acquired validity. If the mayor shall fail to return to the city clerk any act, ordinance, by-law, regulation, resolution or appropriation upon demand by such clerk after the expiration of five days from its presentation to him, he shall be punished by a fine not exceeding one hundred dollars ($100), or imprisonment in the county jail not more than one month, or both in the discretion of the court.

Council shall examine and adjust accounts.

SECTION 55. The council shall examine, audit and adjust the accounts of the clerk, treasurer and all other officers or agents of the city, at such times as it may deem proper, and also at the end of each year, and before the time shall have expired for which the officers of said city were elected or appointed. The council shall require each and every such officer or agent to exhibit his books, accounts and vouchers, for such examination and settlement; and if any such officer or agent shall fail to comply with the orders of the common council in the discharge of his said duties prescribed by this section, or shall neglect or refuse to render his accounts or present his

books and vouchers to the council, or any authorized committee thereof, it shall be the duty of the council to declare the office of such person vacant. The council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and it shall make a full record of all settlements made with officers or agents of the city.

Removal from office.

SECTION 56. The common council shall have power, by an affirmative vote of six aldermen, upon reasonable notice, for cause, to remove from office any officer of the city elected by the council or by the people, except justices of the peace; and the common council shall provide by resolution, the manner of hearing and disposing of cases arising under this section. Witnesses may be sworn as in the trial of actions, but the testimony need not be reduced to writing. The general laws of the state relative to compelling attendance of witnesses shall apply to proceedings under this section.

TITLE 5.

OPENING STREETS, ALLEYS, ETC.

Public squares and alleys.

SECTION 57. The common council shall have power to lay out and open public squares, streets and alleys, and to change, widen or extend the same; to construct and open, alter, enlarge or extend drains, canals or sewers, or alter, widen or straighten water courses. For such purposes it may take private property in the following manner: Whenever ten or more freeholders residing in any ward shall by petition, represent to the common council that it is necessary to take certain lands within the wards where such petitioners reside, for the public use, for any of the purposes herein mentioned, specifying in such petition the purpose for which such lands are required, and the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners. If the common council shall determine that the prayer of such petition should be granted, it shall cause an accurate survey and plat of such land to be made and filed with the city clerk, and it may purchase or take by donation from

such owners, such ground as may be needed, by agreement with the owners, and to take from them conveyances thereof to the city for such use or in fee; but otherwise it shall, by resolution, declare their purpose to take the same and therein by metes and bounds or other appropriate description, describe the lands proposed to be taken, defining separately each tract owned by a distinct owner, mentioning the names of each owner so far as known, and therein fix a day, hour and place when and where it will apply to the county judge, or one of the justices of the peace of said city, for the appointment of a jury to condemn and appraise the same. The provisions herein contained authorizing the city to take such property by purchase or donation from the owner, shall not be construed as requiring an effort on the part of the council to so obtain the lands, but the council may proceed in the first instance to condemn the same.

Notice of resolution.

SECTION 58. It shall thereupon cause to be made by the clerk a notice of the adoption of such resolution, embracing a copy thereof, and notifying all parties interested that the council will, at the time and place named, apply to the judge or justice named for the appointment of a jury, to determine the necessity of taking such lands and the compensation to be paid therefor. A copy of such notice shall be served on the owner of each such parcel of land to be taken residing within the state, and upon each person having an interest therein, by lien or otherwise, in the manner that a summons in an action in the circuit court is required to be served, and proof of such service shall be made in the same manner as of the service of a summons in the circuit court, and shall be *prima facie* evidence of the facts therein stated. If the notice cannot be so given as to all the parcels, then the same shall be also published once in the official paper, and the affidavit of the printer or foreman of such newspaper shall be *prima facie* evidence of such publication. Such notice shall be so served or published at least five days prior to the time for such application. If any such owner be a minor, or of an unsound mind, the judge or justice, before proceeding shall, on the day fixed for hearing such application, appoint for him a guardian for the purpose of such proceeding, who shall give

security to such person to the satisfaction of the magistrate, and act for such person.

Hearing of application.

SECTION 59. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of the service of such notice, as provided in the last section, shall be filed with the judge or justice, who shall thereupon make a list of twenty-four disinterested freeholders of said city. He shall hear and decide any challenge for cause or favor made to any one, and if sustained shall replace his name with an unobjectionable juror until the list shall be perfected. Thereupon, under direction of such magistrate, each party, the common council by its representatives on the one side, and the owners of land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the judge or justice, on the other, shall challenge six names, one at a time, alternately, the council beginning. To the twelve jurors remaining, such judge or justice shall issue a precept, requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn and serve as a jury to view lands and appraise damages, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the chief of police of said city, or sheriff of the county, at least one day before such appointed time, by reading the same to each such juror, or by leaving a copy thereof at his usual place of abode, in the presence of a member of his family.

Jurors shall appear at the day named.

SECTION 60. The jurors summoned shall appear at the time and place named; and if any be excused by the judge or justice, or fail to attend, he shall appoint other jurors having the requisite qualifications, in their place, and such appointment shall be endorsed upon or annexed to the precept, and such person shall be forthwith summoned, and like proceedings shall be had until a jury is obtained. It shall be the duty of every person appointed as such juror to act, unless excused for reasonable cause by the judge or justice appointing him, and every person summoned to serve on such a jury who shall, without being so excused, neglect to serve, shall forfeit and pay the sum of fifty dollars ($50); no person shall be compelled to

serve upon such jury more than once during the same calendar year.

Jurors shall take an oath.

SECTION 61. Each of said jurors shall then, and before entering upon the discharge of their duties, severally take and subscribe an oath to be endorsed upon or annexed to such precept, to be administered by said judge or justice: "That he is a resident and freeholder within said city, and is not interested in the premises proposed to be taken: that he will well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully and impartially discharge their duties as jurors according to law."

Proceedings to be continued without adjournment.

SECTION 62. From the time fixed in the precept for the meeting of the jury, the proceedings shall be continued before such judge or justice without adjournment, except from day to day, as necessity shall require, until a jury is appointed and qualified and a verdict rendered.

Jury shall view the lands and appraise damages.

SECTION 63. Under the direction of such magistrate, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party, and for such purpose, such magistrate shall possess the same powers as a court in session with a jury, and if there be necessity, may adjourn the sitting from day to day. Such magistrate shall decide all questions upon the admissibility of evidence. The jury shall render a separate, unanimous verdict in writing, signed by them, in which they shall find whether it be necessary to take such lands, or any part thereof, for such purpose, describing such as they find necessary to be taken. If any be found necessary to be taken, then they shall render a verdict or appraisment of damages, specifying therein the damages of each owner, stating separately the value of the land taken from each, and the damages otherwise sustained by each by reason of the taking thereof, and from such last named sum they shall deduct any special benefit, if any, to be enjoyed by each from such improvement; and a majority of such jury may render such verdict or appraisal of damages and shall sign the same. If the land be subject to lease, contract, mortgage or judgment, or there be any estate therein less than an estate in fee, or the buildings thereon belong to some person other

than the owner of the land, the person claiming such interest may file with the magistrate a notice in writing specifying the interest claimed, and the jury in such verdict may award to such person the damages which his interest in such lands sustains by the taking thereof, and deduct the same from their award to the owner; and any person filing such notice shall have the same right of appeal as is given to the owner, and in case of failure to appeal shall likewise be concluded by the verdict. Any technical error in such verdict may be immediately corrected with the assent of the jury. The verdict shall be filed by the magistrate. In case the jury shall fail to find a verdict, the council may, upon the same petition, proceed to obtain the appointment of another jury in like manner. The testimony need not be reduced to writing, but the magistrate shall indorse upon the verdict the time of filing same.

Duties of jury after filing the verdict.

SECTION 64. After the filing of such verdict, if it shall appear therefrom that any damages have been awarded, such jury shall again view the said premises, under the direction of the magistrate, and shall then sit before him to hear such competent evidence, relative to any special benefits that may accrue from such improvements to any other tracts of land in the same manner as provided in the next preceding section. The city on the one hand, and any taxpayer or property owner on the other, shall have a right to be heard thereon. The jury shall, thereupon, consider and determine what proportion of the whole award of damages, as found by their verdict, provided for in the preceding section, should be assessed upon the property, if any, specially benefited by such improvement, and shall then apportion and assess the same upon the lands and premises by them deemed specially benefited, in proportion to the benefits received, and shall make a verdict specifying the proportion of damages to be so assessed, and the particular lots or tracts of land determined to be benefited, and the amount of such benefits accruing to each shall be set opposite thereto; and a majority of such jury may render such verdict determining the proportion of damages to be specially assessed as benefits, and upon what parcels of land, and the amount on each, and shall sign the same. Any technical error in such verdict may be immediately corrected, with the assent of the jury, and their

verdict shall be filed by the magistrate, and he shall indorse thereon the time of filing the same. The jury shall then be discharged. Any lot owner against whom any such assessment is made, may appeal from the verdict, as hereinafter provided.

In case there is a building on premises.

SECTION 65. If there should be any building standing, in whole or in part, upon the lands to be taken, the jury shall also, in making their verdict of damages, find and determine, first, the whole value of such building to the owner, aside from the value of the land, and secondly, the value of such building to remove, and shall state such determination in their verdict, and in such cases the award of damages shall be the value of the land taken and the damage to the owner by the taking, over and above such value, less any special benefits, as provided in the second preceding section 63, together with the value of such building to the owner, less its value to remove. The owner of such building may, within ten days after the finding of such verdict, file with such magistrate a notice in writing, that he elects to take such building at the value thereof to remove, as fixed by the jury, and he shall have such reasonable time to remove it as the council shall allow. But if such owner shall neglect to file such notice within the time aforesaid, and to remove such building within the time allowed by the council, the council shall order such building to be sold at public or private sale, in their discretion, and shall direct by whom the sale shall be made. In case of public sale they shall prescribe the time and manner of giving notice, and the proceeds shall be paid to the owner or deposited with the city treasurer, and be subject to his order.

Time given for appeal.

SECTION 66. Within ten days after such verdict any land owner whose land has been found necessary to be taken, or against whose land any assessment has been made, may appeal from the award of damages to him, or assessment of benefits, in such verdict, to the circuit court of said county, and the council may likewise appeal from the award of damages to any owner. The party appealing shall file with such magistrate a notice of appeal, specifying whether the appeal is from the whole award to him or assessment against him, or a part, and, if a part, what part, and therewith an undertaking with two sufficient sureties, to be approved by the magistrate, to pay all costs

that may be awarded against such appellant on the appeal; and, at the time of filing such notice of appeal and undertaking, shall pay the magistrate for his return to such appeal. Any person not so appealing shall be forever concluded by such verdict, appraisement of damages or assessment of benefits. The appeal herein provided for shall be the only remedy for damages sustained by the acts or proceedings of the said city, or its officers, in the matters which such verdict should cover, and no actions at law or in equity shall be had or maintained for or on account of such acts or proceedings. Upon an appeal being taken, the magistrate shall transmit to the clerk of the circuit court, within ten days, the notice of appeal and undertaking, and thereto annex a copy of all the papers in the proceeding, with his certificate thereof, and he shall, after the time for appealing expire, file with the city clerk, annexed together, all the original papers, including the verdict, with a certificate that no appeal has been taken, except as the fact is, which he shall briefly specify, and the clerk shall record all such papers.

Upon filing of transcripts.

SECTION 67. Upon filing such transcripts in the circuit court, the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, and the city as defendant, and be subject to a change of place of trial and appeal to the supreme court as other actions. The appeal shall be tried by a jury, unless waived, and costs shall be awarded against the appellant, if a more favorable verdict be not obtained; otherwise, against the respondent. Upon entry of judgment the clerk of the circuit court shall transmit a certified copy thereof to the city clerk.

Council may enact an ordinance to cover the ground.

SECTION 68. If the verdict of the jury find it necessary to take such lands, or any part thereof, the council may upon return thereof to the clerk, enact an ordinance according thereto, for laying out, changing, widening or extending and opening any such street, lane, alley, public ground, square or other public place; or constructing, opening, altering, enlarging or straightening any such drain, canal, sewer or water course; but shall not appropriate the land until the damages awarded the owner or other party interested, be paid or tendered him, or the amount thereof be set apart for him in the hands of the treasurer, and an order therefor lawfully executed to him to be de-

posited with the city clerk to permanently remain subject to his order, at any time before causing any such land to be actually taken for such purpose, and before the rendition of any judgment in the circuit court for damages, the council may discontinue all proceedings theretofore taken, and the city shall, in that event, be liable for the costs only. All the costs of every such proceeding shall be paid by the city, except when they recover costs in the circuit or supreme court.

Council shall levy and assess amount.

SECTION 69. Upon the filing with the city clerk of the verdict and other proceedings mentioned in section 66, the council shall proceed to levy and assess upon each tract of land mentioned in the verdict of the jury against which any assessments of benefits has been made, the amount assessed thereon by the jury as a special tax, and the same shall be inserted in the tax roll next made out thereafter and collected as other taxes.

Judgment for the differenee.

SECTION 70. If on the appeal by any person against whom such assessment is made, judgment is rendered in favor of the appellant, such judgment shall be for the difference between the assessment and the amount determined to be justly chargeable against the property affected by such appeal on the trial in the circuit court.

Compensation.

SECTION 71. The said jurors shall each receive as compensation for his services on such jury, one dollar for each day's service on such jury.

Opening of public streets.

SECTION 72. Whenever the said common council, with the concurrence of three-fourths of the members elected thereto, shall declare by their resolution, that it is necessary for the public interest to open a public street or alley, or take land for any public purpose authorized by this act, the said common council shall have power to open such public street or alley, or take land for such public purpose, as the case may be, without any petition therefor, and to proceed thereafter in that behalf, as in cases of petition therefor, duly made: provided, that in cases of streets and alleys, such resolution shall also be approved by the aldermen of the ward in which the land proposed to be taken may be situated. The resolution provided for in this section shall declare why it is necessary for the public interest so to proceed; and no such resolution shall be passed by the common council at the same meeting in which it is first considered: but the same shall lie over to a future meeting

thereof, and the yeas and nayes on the passage of such resolution shall be taken, and duly entered in the journal of proceedings of the council.

Publication of petition.

SECTION 73. Upon the petition, in writing, of all the owners of lots or lands on any street or alley, and not otherwise, the council may vacate any street or alley, or any part thereof. At least ten days before acting on such petitions, the council shall cause the same to be published in the official paper of said city, with the notice of the time the same will be acted upon; and the votes of all the aldermen entitled to seats in the council shall be necessary to pass any ordinance or resolution vacating a street, lane or alley, or any part thereof.

In regard to continuation of streets.

SECTION 74. Whenever the owner or owners of any land in said city shall desire the continuation of a street or alley or highway, or a new street or alley through or over the same, and shall have filed his or their written consent thereto, specifying the width, course and termination of such street, with the clerk of said city, the common council may, by resolution, lay out, establish and name and open said street or alley in accordance with said consent, and said street or alley shall thereafter be subjected to all laws and ordinances of said city applicable to streets and alleys.

Encroachments.

SECTION 75. Whenever complaint shall be made to the common council that any highway, street, or alley in said city has been or shall be encroached upon by any fence, building or other fixture, the said council may, by resolution, require and direct the removal of such encroachment, and thereupon the mayor of said city shall make an order under his hand, requiring the occupant of the land through or by which such highway, street or alley runs, and to which such fence, building or other fixture shall be appurtenant, to remove the same beyond the limits of such highway, street or alley, within twenty days thereafter, and he shall cause a copy of such order to be served upon such occupant, and every such order shall specify the width of such highway, street or alley, the extent of the encroachment, and place or places in which the same may be with reasonable certainty.

Further regarding encroachments.

SECTION 76. If the fence, building or other fixtures causing such encroachment shall not be removed within said twenty days after the service of such order, and such occupant shall not have denied such encroachment, as provided in the next

succeeding section herein, such occupant shall forfeit the sum of one dollar ($1.00) for every day after the expiration of said time during which such encroachment shall continue; and in such case if such encroachment shall not be removed within thirty days after the service of such copy, in addition to the collection of said penalty or forfeiture, the common council may, by resolution, authorize and direct the superintendent of streets of said city to forthwith remove such encroachment or encroachments; and it shall thereupon be lawful for and the duty of said superintendent of streets, without delay, to remove or cause to be removed such fence, building or other fixture, beyond the limits of such highway, street or alley, as specified in the order mentioned in the next preceding section.

Notice to occupant.

SECTION 77. If the occupant upon whom a copy of such order shall be served shall, within ten days after the service thereof in writing, deny such encroachment, and file the same or a copy thereof with the city clerk, the said clerk shall thereupon make out and serve upon such occupant a notice that at a time and place therein named to be not less than twenty-four hours after said service, application will be made to a justice of the peace of said city, to be named therein for the selection of six disinterested freeholders of said city, to enquire into the premises at the time and place therein designated, the said justice shall make out a list of eighteen disinterested freeholders of said city, from which six shall be selected and struck in the same manner that juries are selected and struck in justices' courts; the said justice shall thereupon issue his precept directed to the chief of police, deputy sheriff, or any constable of the county, commanding him to summon the six freeholders thus selected to meet at a certain day and place not less than two days after the issuing thereof, to enquire into said alleged encroachment, and should either party not be present at the selection of said jury, said constable shall give such absent party at least one day's notice of the time and place at which such freeholders are to meet.

Swearing of jury.

SECTION 78. On the day specified in the precept the jury so summoned shall be sworn by such justice well and truly to inquire, whether any encroachment has been made, as described in the order of said mayor, and by whom; and the wit-

nesses produced by either party shall be sworn by the justice and the jury shall hear the proofs and allegations which may be produced and submitted to them, and in case any person so summoned as juror shall not appear, or shall be incompetent, his place may be supplied by a talesman, as in other cases.

Finding of jury in regard to encroachments.

SECTION 79. If the jury find that any such encroachment has been made, they shall make and subscribe a certificate in writing of the particulars and extent of such encroachment and by whom made, and shall file the same in the office of the city clerk; and the occupant of the land, whether such encroachment shall have been made by him or by any other person, shall remove the fence, building or other fixtures causing such encroachment within twenty days after the filing of such certificate, and in default of such removal shall forfeit and pay a penalty of one dollar ($1.00) for each day after the expiration of such time during which such encroachment shall continue, and if such encroachment shall not be removed within twenty days after the expiration of said time, in addition to the recovery of said penalty, the common council may proceed to cause such encroachment to be removed, as provided in said section 76 of this title. Any person who shall replace any encroachment, after the same shall have been removed by the officers of the city, as provided in this title, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding one year, or both, in the discretion of the court.

Occupant to pay cost.

SECTION 80. If the jury find that any encroachment has been made as aforesaid, the occupant shall pay the cost of such inquiry, and if the same shall not be paid in ten days the justice shall issue an execution for the collection thereof, directed to the chief of police of the city, sheriff or deputy sheriff, or any constable of the county, commanding him to levy such costs and his fees thereon, of the goods and chattels of such delinquent, and make return thereof to such justice within thirty days from its date, and the justice, constable, jurors and witnesses shall be entitled to the same compensation as other similar services in trials before justices of the peace.

SECTION 81. If the jury find that no encroach-

City to pay costs.

ment has been made they shall so certify, in which case the city shall be liable to pay the costs of the proceedings, including the fees of witnesses of said occupant who shall have been sworn in said matter, and the common council shall allow the same as other accounts against said city.

Width of lots and alleys.

SECTION 82. In all cases where lands in the city shall hereafter be sub-divided in lots and blocks, or where streets, alleys or public grounds shall be donated or granted to the public, the owner or owners thereof shall, in platting the same, cause the streets and alleys in such plat to correspond in width and general direction with the streets and alleys through the lots and blocks in said city adjacent to the lot or tract so platted, and shall submit such maps or plats thereof to the common council of said city for their approval; and if such plat or map shall be approved by the common council it shall be lawful for the party or parties making such plat to record the same and the evidence of such approval in the manner prescribed in the revised statutes of this state concerning town plats; but except such plat shall be approved by resolution adopted by said common council, a copy of which, duly certified by the city clerk shall be affixed to said plat, it shall not be lawful for the register of deeds of Winnebago county to receive such plat or map for record or to record the same, and the same shall have no validity, and the person or persons neglecting or refusing to comply with the requirements of this section, shall forfeit and pay a sum not less than one hundred dollars ($100), nor more than two hundred dollars ($200), and the register of deeds, who shall record such plat without such copy of a resolution of the common council thereto attached, approving the same, shall forfeit and pay a sum not less than fifty dollars ($50) nor more than one hundred dollars ($100).

Public streets and alleys.

SECTION 83. All streets and alleys which have been heretofore laid out, or which may be hereafter laid out, by the common council or otherwise, and which shall have been opened and used or worked and improved for four years successively, shall be held to be public streets and alleys, and no defect or irregularity in the proceeding of opening the same, or in the direction thereof, shall affect the same.

TITLE 6.

IMPROVEMENT OF STREETS, ETC.

Establishing grades.

SECTION 84. The common council of the city of Neenah shall have power to establish the grade of streets, alleys, gutters, sidewalks, etc., of said city, and to change and to re-establish such grade as it shall deem expedient; provided, that whenever it shall change or alter the grade of any street, the city shall be liable to any person who shall have sustained damages by such change or alteration of grade, for the damages so sustained.

Building of sidewalks, etc.

SECTION 85. The common council shall have power to cause sidewalks, curbstones and gutters to be built, re-built or repaired of such material and in such manner as it may direct, and to assess the cost thereof against the particular lot or lots in front of which such work shall have been done. Such work may be done, and required to be done, without any petition therefor, upon the passage of an order or resolution by the common council, describing the location of the lots or lands in front of which such work shall be done, and naming the owners thereof, if known, and containing a particular description of the work, and naming the time (which shall not be less than fifteen days) in which the same shall be done; notice of such order or resolution shall be given, either by the service of copies thereof upon the owners of such lands personally, or by leaving a copy with the occupants of any building on such lot or lots, if they shall be occupied, or by a publication of such order or resolution in the official paper of the city at least ten days before such work is required to be done. The affidavit of the officer serving such order, describing the manner of such service, or the affidavit of the printer of the publication of such order, shall be *prima facie* evidence of such service. If, after the time mentioned for the performance of such work in such order, such work, or any part thereof, shall not have been done, the common council may cause such work to be done by contract, or by men in its employ, and shall charge the particular cost of such work done in front of or contiguous to any lot or parcel of land as a special assessment against the respective lot or lots in front of or

contiguous to which such work shall have been done, and such assessment shall be collected as other taxes are collected.

Repair of sidewalks.

SECTION 86. Whenever a sidewalk shall be out of repair, and so remain for the space of twenty-four hours, if, in the opinion of the street commissioner, it will not cost to exceed the amount of five dollars ($5.00) in front of any one lot to repair the same, he shall be authorized, and it is hereby made his duty, to cause the same to be immediately repaired. When the same is completed he shall make out an itemized bill of the cost of such repairs, specifying the lot or parcel of land adjacent to which such repairs were made, verified by his oath, and shall deliver the same to the city clerk. Said clerk shall present all such statements to the city council at its first meeting in November, and the council shall levy and assess the amount of the cost of such repairs, or so much thereof as it shall determine to be just, upon the lot or tract of land adjacent to which such repairs were made as a special tax, and the same shall be inserted in the tax roll and collected as other taxes.

Owner of lots to keep sidewalks in repair.

SECTION 87. It is hereby made the duty of every owner of lots or tracts of land within said city, and they are hereby required to keep and maintain the sidewalks in front of and adjacent to their respective lots in good repair, and the existence of defects in such such sidewalks for the space of twenty-four hours shall be notice to the owners of the adjacent lot of their need of repair, and no other or further notice need be given, but no lot owners shall be liable for damages on account of injuries from any defect in any such sidewalk.

Re-grading of streets, etc.

SECTION 88. The common council shall have power to cause any street, lane or alley, or part thereof, to be graded or regraded without any petition therefor, at the expense of the lots or lands fronting or bounding the same, in the same manner as is provided in section 85 for the construction and repair of sidewalks, etc.

Extraordinary filling.

SECTION 89. Whenever the general interests of the city require deep cutting or extraordinary filling, in grading any street, and the owners of the lots or lands fronting on such deep cutting or filling, shall deem themselves aggrieved thereby, and shall represent to the council, in writing, that the

expense of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the adjacent property, the council may, in its discretion, order such cutting or filling to be done under the direction of the street commissioner, and shall, in such order, fix the amount justly chargeable to such lots or lands, and such sum shall be assessed thereon, and collected as other special assessments; provided, that such representation shall be made before the time fixed for the performance of such work.

Expense of improvement of streets at their intersection to be borne by city.

SECTION 90. The expense of all improvements in construction or repair of streets, at their intersection with streets or alleys, and across public grounds, and to the middle of streets and alleys adjacent to public grounds, and the building and repairing of crosswalks, and the laying and repairing of drains to carry the surface water at the intersection of streets, the construction and repair of sidewalks, curbstones and gutters adjoining any public ground or square, and the construction and repair of sewers across streets and alleys and adjacent to public grounds, and the construction and repair of bridges and culverts, and the graveling of streets and alleys, and the ordinary repairs of all streets and alleys shall be paid out of the general "street, highway and bridge fund."

Paved and macadamized at expense of owner.

SECTION 91. The council may cause any streets, or parts of streets, to be paved or macadamized at the expense, in whole or in part, of the adjacent lots, upon a petition in writing therefor, signed by at least a majority of all the owners of real estate bounding both sides, and of the owners of at least half the frontage of such street, or part of street, to be so improved. If the council shall determine that such improvement be made, it shall cause to be made, by some competent person, an estimate of the average cost per foot of frontage on each lot, for the construction of the same to the center of the street. Such estimate shall include the cost of any cutting or filling necessary, and it shall be filed in the office of the city clerk for the inspection of all parties interested.

Proportion of cost to be first considered.

SECTION 92. Before proceeding to execute such proposed improvement, the council shall consider and determine what proportion of the costs of such improvement should be paid by the lot owners owning the respective lots fronting or bounding such streets, which shall be a uniform

proportion, and shall assess the amount so determined upon each such lot or tract of land as a special tax, specifying the amount, and shall thereupon cause notice to be published in the official paper that such assessment has been made, and that at a time and place to be named in such notice, not less than ten days from the publication thereof, the council will meet to review such assessment; that all persons interested will then be heard in objection to the proposed assessment; and any tax payer of said city shall be deemed interested. It shall be sufficient to state briefly in such notice the nature of the proposed improvement and the locality, and no further or other notice of such assessment shall be necessary. At the meeting mentioned in such notice the council shall hear such objections as may be offered, and may review and modify such assessment preserving uniformity throughout in such a manner as it may deem just, and for the purpose of such review may adjourn from time to time as may be necessary; provided, no such assessment shall be increased without notice to the lot owners, if residents of said city.

Final adjustment of assessments.

SECTION 93. Such assessments as finally adjusted by the council shall thereupon be levied and assessed upon the respective tracts of land as a special tax and be inserted in the tax roll first made out thereafter and collected as other special taxes.

Whom council to employ.

SECTION 94. In all cases mentioned in this or the next preceding title wherein the common council is authorized to cause improvement or repairs to be made of any kind the council may, in its discretion, cause the same to be done by men in its employ, and may procure the necessary material therefor, or may let the same by contract. If let by contract it shall be to the lowest responsible bidder, and notice of the time within which bids will be received shall be given by publication in the official paper at least ten days prior to the expiration of such time, and in all cases the council may require bonds from contractors in such form and penalty as it may direct for the faithful performance of contracts awarded to them.

Dangerous sidewalks.

SECTION 95. Whenever any sidewalk or part of any sidewalk shall, in the judgment of the common council, declared by a resolution to that effect, be in a dangerous condition to persons

passing over it, for want of being repaired or remade, it shall have power to order the same to be forthwith repaired or remade, and thereupon forthwith to employ fit persons to repair or remake the same for a fair price, and charge the expense thereof to the lots, parts of lots or parcels of land abutting thereon, by a special assessment; and such assessment shall be a valid charge and lien upon such lots, parts of lots or parcel of land, without any estimate, notice, letting or other proceeding preliminary to the doing of such work, except the resolution of said council so declaring such walk to be dangerous.

Work done under street commissioner.

SECTION 96. All work provided for in this title shall be done under the direction and supervision of the street commissioner, and to his acceptance. And in all cases wherein the council is authorized to do any work, or cause the same to be done, and to assess the whole or any part of the cost thereof upon the adjacent lots, the expense of such work and material used may, in the first instance, be paid out of the "general street, highway and bridge fund," and all special taxes collected for the purposes mentioned in this title, shall be credited to said fund. The street commissioner shall keep an accurate account of the cost of all labor and material expended upon improvements, or repairs, the whole or any part of which is chargeable to the adjacent lands, and before the first day of November in each year, shall report the same to the council, and if found correct the council shall levy and assess the amounts so chargeable upon the respective tracts of land assessable therefor, as a special tax, and the same shall be inserted in the tax roll for such year, and collected as other city taxes.

Only directory.

SECTION 97. All the foregoing directions given in this title shall be deemed directory only; and no error, irregularity or informality, in any of the proceedings under the provisions of this title of this act, shall in any way affect the validity of the proceedings, unless it shall appear that the party complaining shall have been actually damaged thereby.

TITLE 7.

FINANCES AND TAXATION.

Assessors.

SECTION 98. The assessors hereinbefore provided for shall be elected by the city at large, and

shall together assess all the real and personal property in said city, as provided by law, and perform all duties and possess all powers of town assessors, except so far as they may be altered by this act. In case of a disagreement of values between such assessors in assessing any property, the matter shall be presented to the mayor, and his decision shall determine such value for the purpose of completing the assessment roll.

Assessment of property for taxation.

SECTION 99. All property in said city, real, personal or mixed, shall be subject to taxation for all purposes authorized by law, excepting only such property as is or shall be exempted from taxation throughout the state (by general laws exempting from taxation), particular classes of property belonging to particular classes of persons or corporations, but no real estate shall be exempt from special taxes for local improvements provided for in this act.

Assessment roll.

SECTION 100. The assessors shall make out an assessment roll of all taxable property in each ward in said city, and for the purposes of determining the ward in which any property should be assessed, each ward shall be considered a distinct assessment district, and the general laws of the state relative to the place of assessment shall control. In the apportionment of state and county taxes, the said city shall be regarded as one assessment district, and in all other transactions with the board of supervisors of Winnebago county, except as herein otherwise provided.

When roll shall be delivered.

SECTION 101. The assessors shall, on or before the first Monday in August, annually, deliver the assessment roll so completed, as provided by section 36, and all the sworn statements and valuation of personal property to the clerk of said city, and the same shall be preserved in his office. All the general laws of the state relative to the duties and powers of assessors and city clerks in all matters relating to the assessment of taxes, shall apply to, and be in force in said city, except as otherwise provided in this act.

Clerk shall make out a tax roll.

SECTION 102. Upon receiving the annual statement of state and county taxes, the city clerk shall make out a tax roll of all the real and personal property in said city, as required by the general laws of the state, and shall, upon a uniform percentage, calculate and carry out in one item, opposite to each valuation in said tax roll,

the amount required to be raised upon such valuation to realize in the said city the whole amount of state, county, school and other taxes so certified, together with all the city taxes, except taxes to pay judgments and special assessments; and all other taxes, including taxes to pay judgments and special assessments in separate columns, opposite the valuation of the property to be charged. Upon receiving the county treasurer's receipt, prescribed in section 1080, of the revised statutes, said clerk shall attach to said tax roll a warrant substantially in the following form:

Form.

THE STATE OF WISCONSIN—To ——— ———, treasurer of the city of Neenah, in the county of Winnebago:

You are hereby commanded to collect from each of the persons and corporations named in the annexed tax roll, and from the owners or occupants named of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described; and in case any person or corporation, upon whom any such sum or tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed; and out of the moneys so to be collected, you are first to pay to the treasurer of said county, on or before the last Monday of January next, the sum of ——— dollars for state taxes; you are to retain and pay out as treasurer, according to law, the sum of ——— dollars; and the balance of said moneys you are required to pay to said treasurer for county purposes, on or before the day above specified, by which day you are further required to make return to said treasurer of this warrant, with said roll annexed, together with your doings thereon, as required by law.

——— ———, Mayor.
——— ———, Clerk.

Said warrant shall be signed by the mayor and clerk, and sealed with the corporate seal of said city. The said clerk shall endorse upon or annex to said warrant a statement of the percentage, each, of state, county, general, city tax, street, highway and bridge tax, city school tax and poor tax; and shall deliver such tax roll and warrant

to the city treasurer on or before the second Monday in December, or as soon thereafter as practicable.

Duty of city treasurer.

SECTION 103. The city treasurer upon the receipt of such tax roll, shall proceed to collect the taxes therein named in like manner as town treasurers are, or may be required to do by law, except as otherwise provided in this act. The city treasurer shall receive one per centum fees upon all taxes paid to him before the first day of January, and three per centum fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same. He shall also receive as compensation two per centum upon all other moneys paid into the treasury, except when said city shall borrow money, he shall receive one per centum for receiving and disbursing the same. The compensation herein provided for, shall be in full for all services performed by said treasurer under this act or the ordinances of the city.

Shall return list of delinquents.

SECTION 104. The said treasurer shall, within the time required by law unless such time be extended by the council, as authorized by section 1108, revised statutes, make out and return to the treasurer of Winnebago county a list of all lands, lots and personal property upon which taxes have not been paid, and shall also settle with and pay over all moneys properly payable to said county treasurer, in like manner as is or may be required by town treasurers.

Shall not receive tax certificates in payment for taxes.

SECTION 105. The city treasurer shall not receive from the county treasurer tax certificates in payment of any indebtedness which may become due from said county to said city. The county treasurer shall sell all delinquent lands and lots returned from the city of Neenah at the same time and in the same manner as other delinquent lands are sold in said county.

Notice to be given.

SECTION 106. On the receipt of the said tax roll, the treasurer shall give one week's notice thereof in the official paper. Such notice shall specify "that the tax roll for said city is in his hands for collection, and that the taxes charged therein are subject to payment at his office at any time prior to the first day of January next. That after said first day of January, he will proceed to collect the taxes charged in such roll and remaining unpaid, as provided by law." The first publication of such notice shall be deemed a sufficient

demand, and neglect to pay such taxes and assessments prior to said first day of January shall be deemed a refusal to pay the same. It shall be the duty of such treasurer to call at least once upon each person taxed, at his usual place of abode, if a resident of said city, for the payment of such tax. In case of his failure so to do, and such tax remain uncollected, the treasurer shall be liable to said city on his official bond for the amount thereof.

Taxes to remain a lien.

SECTION 107. All taxes or assessments, general or special, levied pursuant to the provisions of this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed until paid. And all taxes or assessments, general or special, levied pursuant to the provisions of this act, upon personal property of any person or corporation, shall be and remain a lien upon the whole and every part of the personal property so assessed or taxed, from the date of the warrant for the collection thereof until such taxes shall be paid, and no transfer of such personal property shall affect such lien. Any personal property belonging to the person taxed, may be taken and sold for the payment of taxes, and all general laws of the state relative to the distress and sale of property for the non-payment of taxes, shall apply to and be in force in said city.

Fiscal year, when to commence.

SECTION 108. The fiscal year of the city of Neenah shall commence on the first day of September, on which day or within twenty days thereafter, the common council shall, by resolution, determine what amount of money, including the estimated resources of the city not derived from direct taxation, for the year then next ensuing, will be required for general city purposes during that year. The council shall thereupon, by resolution, levy a tax upon all the taxable property of said city, for general city purposes, not exceeding in amount one per centum of the assessed value of real and personal property for that year.

Street, highway and bridge tax, to be levied at same time.

SECTION 109. The said common council shall, at the same time as the general city tax is to be levied, determine and levy the amount of street, highway and bridge tax in said city, as an addition to the general fund for the ensuing year, for the purpose of repairing bridges and graveling streets and highways in said city of Neenah, which

amount shall not be less than one, nor more than four mills on the dollar, upon all taxable property of said city, as the same shall appear upon the assessment roll of property in that year. The aldermen of each ward shall have the special care of all streets, alleys, highways, bridges, culverts and sidewalks in their respective wards, and shall, from time to time, recommend to the council the making of such improvements in their respective wards as they deem necessary. At the same time the general city tax is levied, the common council shall annually levy a tax not exceeding one mill upon the dollar of the assessed valuation of the real and personal property of the said city, for the purpose of the support of the poor of such city lawfully entitled thereto, such tax to be levied and collected in the same manner as other city taxes. All the laws of the state of Wisconsin for the relief and support of the poor in towns, shall apply to the said city of Neenah, except as otherwise provided in this act. At the same time the general city tax is levied, the common council shall annually levy a tax for general school purposes, upon all the taxable property of said city, which shall be a sufficient percentage upon the assessed valuation to raise the amount necessary for school purposes, as shown by the estimate furnished by the board of education, as hereinafter provided, which shall not exceed one per centum upon the assessed valuation.

No error shall invalidate.

SECTION 110. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes not affecting the substantial justice of the tax itself, shall invalidate or vitiate or anywise affect the validity of the assessment or tax.

Funds to be under control of council.

SECTION 111. All the funds in the city treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out only upon the order of the mayor, countersigned by the city clerk, duly authorized by a vote of the common council. All orders drawn upon the treasury shall specify the purpose for which they were drawn, and shall be payable only out of the fund upon which they are drawn. Such orders shall be drawn payable to the person in whose favor they are allowed.

SECTION 112. No debts shall be contracted

against the city, or certificates of indebtedness drawn upon the city treasury, unless the same shall be authorized by a majority of all the members of the city council, and no money shall be appropriated for any purpose whatever, except such as is expressly authorized by this act, and any alderman who shall vote for any expenditure of city funds not authorized by law, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not exceeding one hundred dollars ($100), or imprisonment in the county jail not exceeding six months, or both, in the discretion of the court. Only a majority of council can adjust debts.

SECTION 113. All moneys received from licenses shall be paid into the city treasury and become part of the general fund. License moneys.

SECTION 114. All moneys raised or received for school purposes shall constitute a separate fund, denominated the "school fund." All moneys raised and received for the support of the poor shall constitute the "poor fund." All moneys raised or received from the "street, highway, or bridge tax," poll tax and special assessments or improvements or repairs on streets, sidewalks, gutters, sewers, etc., shall constitute the "street, highway and bridge fund." All other moneys received into the treasury shall constitute the "general fund." All receipts into the treasury shall, as received, belong to the said several funds in proportion to the several amounts of each fund; and no moneys raised or received on account of any special fund shall be appropriated or used for any other purpose than that of their respective funds. No interest shall be allowed or paid on any city order or certificate whatever. In no case shall the city be liable for any script or other evidence of debt issued, or upon any appropriation made, or upon any agreement or contract entered into by the common council beyond the sums which the said common council is by this act authorized to levy upon the taxable property of said city. School funds.

SECTION 115. All accounts or demands against the city, whether arising on contract or tort, except salaries and amounts previously fixed before the same shall be allowed, shall be verified by affidavit; and any person who shall falsely swear relative to such account or demands shall be deemed guilty of perjury. Payment of salaries.

SECTION 116. In case any person shall present

Disallowing claims.

his claim or demand to the common council, and the said council shall disallow such claim in whole or in part, it shall not thereafter entertain such claim unless by consent of a majority of all the aldermen entitled to seats in the council. The determination of the common council disallowing in whole or in part any claim of any person shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim or demand, except that such persons may appeal to the circuit court of said county as provided in the next section.

Disallowing claims in whole or in part.

SECTION 117. Where any claim of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of the council disallowing such claim, to the circuit court of the county of Winnebago, by causing a written notice of such appeal to be served on the clerk of said city, within twenty days after written notice of the making of such decision, and executing a bond to the said city, with sufficient surety, to be approved by the said clerk, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the applicant by the court. The clerk, in case such appeal is taken, shall make a brief statement of the proceedings had in the case before the council, with its decision thereon, and shall transmit the same, together with the bond and all the papers in the case, to the clerk of the circuit court of Winnebago county, and thereupon, such appeal shall be entered, tried and determined in the same manner as cases originally commenced in the circuit court. Such court may, in its discretion, order formal pleadings to be filed, and issue formed, as in other actions, and costs shall be awarded, as on appeals from justice courts. The clerk, upon such appeal being taken, shall, forthwith, give notice thereof to the mayor, and shall also report the same to the council at its first meeting thereafter.

Claims to be first presented to council.

117*a*. No action shall be maintained against said city by any person, corporation or body politic upon any claim or demand arising on contract or tort, until such person shall have first presented such claim or demand to the common council for allowance, and said council shall neglect or refuse to act thereon for the period of three months from its presentation.

SECTION 118. In addition to the taxes herein authorized to be levied by the common council, said council is hereby empowered to levy a tax sufficient to pay any judgments that may be recovered against said city. Tax to pay judgment.

118a. Whenever the common council shall determine to make any unusual expenditure for any of the purposes provided in this act, if it have reason to believe that such public improvement or unusual expenditure will require an outlay of more than three thousand dollars ($3,000), it shall, before taking any steps by which the city may become liable therefor, submit to the people at some general or special election the question of making such improvement or incurring such expenditure. The ballots shall read, "For the improvement or expenditure," or "Against the improvement or expenditure," and unless a majority of the ballots cast on such question shall be in favor of the same, the said improvement or expenditure shall not be made. In case of submitting any such proposition, notice thereof shall be given in the election notice provided in this act; but this provision shall not apply to the erection of school houses, or repair of bridges. Raising money for unusual expenditures.

TITLE 8.

POLL TAXES AND COLLECTION OF SAME.

SECTION 119. Every male inhabitant of the city of Neenah, over twenty-one years of age and under fifty years, except active members of the fire department in the city, and persons receiving pensions from the United States, paupers, idiots and lunatics, shall pay into the city treasury, annually, the sum of one dollar and twenty-five cents ($1.25) each, as a poll tax. Poll tax.

SECTION 120. The assessor of said city shall, in the month of May in each year make out duplicate lists of all persons liable to pay said tax, designating the ward in which each person on said list resides; and shall, on or before the first Monday in June, each year, deliver one of said duplicate lists to the city clerk, which shall be filed and preserved in his office. The other duplicate list he shall at the same time deliver to the street commissioner of said city. Duplicate lists.

SECTION 121. Upon receiving such list said clerk shall cause to be published in the official Notice to be published.

paper, a notice to the effect: "That the list of poll taxes is in the hands of said street commissioner for collection, and that all persons failing to pay the same prior to August 1st, in such year, will be proceeded against as provided by law."

Money or work.

SECTION 122. After such list is in the hands of the street commissioner, any person may pay to such commissioner the amount of his tax in money, or, if he desires to, he shall be permitted to perform ten hours' work upon the streets of the city, under the direction of such commissioner, at such time and place as he shall direct, within the month of July, in lieu of money.

Board to determine liability.

SECTION 123. The mayor, city clerk and city treasurer shall constitute a board to determine the liability of persons to pay such tax; and all persons claiming to be exempt from poll tax shall apply to said board to be relieved therefrom before July first. A failure so to apply shall be deemed conclusive evidence of the liability to pay such tax. Said board shall meet at the city clerk's office on the third and fourth Mondays of June for the purpose of hearing such complaints.

Street commissioner shall collect.

SECTION 124. The street commissioners of said city shall, in the name of said city of Neenah, sue for and collect the said poll tax from all persons liable to pay said tax who shall not have paid the same on or before the first day of August of each year.

Five per cent. for collection.

SECTION 125. Said street commissioner, upon receiving the poll list, shall proceed to collect the same, and shall receive as compensation therefor five (5) per centum upon the amount of such taxes collected in money, in addition to all other compensation.

TITLE 9.

FIRE DEPARTMENT.

Fire limits.

SECTION 126. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire proof, shall not be erected, placed, raised, enlarged, or repaired; and to direct that all and any buildings within the limits prescribed shall be made and constructed of fire proof material; and to prohibit the repairing or rebuilding of wooden buildings

within the fire limits, and to prevent the moving of any wooden building into or within such limits.

Construction of chimneys.

SECTION 127. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a secure and safe condition when considered dangerous; to require the inhabitants to provide as many fire buckets, and in such manner and time as they may prescribe; and to regulate the use of them in time of fire; to prevent and regulate the carrying on of manufactories, dangerous in causing or promoting fire; to regulate and prevent the use of fireworks or firearms; to compel the owners and occupants of buildings to have scuttles in the roof, and stairs or ladders leading to the same; to authorize the mayor, aldermen and other officers of the city to keep away from the vicinity of any fire all idle and suspected persons; and to compel all bystanders to aid in the extinguishment of fires, and in the preservation of property exposed to danger thereat; and generally to establish such regulations for the prevention and extinguishment of fires and for the safety and protection of persons from injury thereby, as the common council may deem expedient.

Power to purchase fire engines.

SECTION 128. The common council shall have power to purchase fire engines and other fire apparatus, and to maintain or organize a fire department, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited and their apparatus to be delivered up. Each company shall not exceed seventy able-bodied men between the ages of fifteen and fifty, and may elect its own officers, and form its own by-laws, not inconsistent with the laws of this state, or the ordinances and regulations of said city, and shall be formed only by voluntary enlistments. Every member of each company hereby authorized to be formed, shall be exempt from poll tax, from serving on juries and from military duty, during the continuance of such membership.

SECTION 129. The fire department shall, on the

Meetings of fire department.

third Monday of March of each year, at seven o'clock in the afternoon, meet at such place as the common council may appoint, at which time and place it may appoint one chief engineer and two assistant engineers of the fire department, which appointments shall be confirmed by the common council before the same shall be in force; and if for any reason such appointments shall not be made at the time and in the manner provided in this section, and confirmed by the common council, then the common council may, at such time as it deems proper, elect one chief engineer and two assistant engineers of the fire department.

Duties of chief engineer.

SECTION 130. The chief engineer of the fire department of the city, shall in all cases have the exclusive control of the different fire companies of the city, their engines, steamers and fire apparatus, and also the direction and control thereof when called out on duty, subject only to the control of the common council; he shall see that the engines, steamers, and apparatus of the fire department are kept in perfect order and readiness for immediate use, and cause all necessary repairs to be made without letting the same by contract, and report the same to the common council for approval and allowance; he shall use his utmost endeavors in preventing and subduing fires, and controlling the firemen thereat; he shall perform such other and further duties as are prescribed in other provisions of this act, and by the ordinance of the common council, and shall annually on the first Monday in March report to the common council the condition of the fire department, and make such recommendations as he may deem advisable, and file with the city clerk a full inventory, verified by his affidavit, of all the apparatus, engines, carts, hose, ladders and tools belonging to the fire department, and shall file with the city clerk a report showing the number of members in each company, and the number of times the department has been called out to fires during the preceding year, and generally such other matters as the council may require. It shall be the duty of all persons present at fires to obey all lawful orders of the mayor, chief engineer, the assistant engineers, members of the common council, chief of police or other policemen, and either of said officers is hereby authorized to call upon any per-

son present to assist in working the fire engines or moving the same from place to place.

Appointment of fire wardens.

SECTION 131. At the time of choosing the chief engineer, or as soon thereafter as may be, the members of the fire department shall, in the same manner, appoint one fire warden for each ward, which appointment shall be confirmed by the council as provided for the chief engineer. Such fire warden shall examine as to the construction of all chimneys, fire places, hearths, stoves, stovepipes, ovens, smoke stacks, boilers and fire apparatus used in and about any building, and shall have power to prevent the improper construction thereof, and may cause them to be removed, and placed in a safe and secure condition. They shall prevent the depositing or keeping of ashes or any combustible material in any place except such as is safe; and they shall perform other and such further duties as may be ordered or prescribed by the common council.

Penalty for refusing to obey.

SECTION 132. Whenever any person shall refuse to obey any lawful order of the chief engineer of the fire department, or assistant engineer, or the mayor, or aldermen, or any policeman at any fire, it shall be lawful for the officer giving such order to arrest, or to direct orally any policeman, constable or watchman to arrest such person, or to confine such person or persons temporarily in any safe place, until such fire shall be extinguished; and in the same manner such officers, or any of them, may arrest or direct the arrest or confinement of any person at such fire who shall be intoxicated or disorderly; and any such person who shall refuse to obey any such lawful order, or who shall refuse to arrest or aid in arresting any person so refusing, shall be liable to such penalty as the council may prescribe, not exceeding ten dollars ($10).

Employment of help to run fire engines.

SECTION 133. The common council may employ engineers and all other necessary help to run and conduct steam fire engines, at stated salaries, and to provide and to keep the necessary teams, houses and conveniences for the efficient operation of the fire department.

Tax for fire purposes.

SECTION 134. There shall be paid to the treasurer of the city of Neenah, for the benefit of the fire department of the city, on or before the first day of February of each year, by every person who shall act in said city as agent for or on be-

half of any individual or association, or association of individuals, whether incorporated by the laws of this state or by the laws of any other state, territory or country, to effect insurance against loss or injury by fire, the sum of two dollars ($2.00) upon each hundred dollars ($100), and at that rate upon the amount of all premiums which, during the year or part of year ending on the next preceding first day of January, shall have been received by such agent or person or company, or by any other person or persons for him or it, or which shall have been agreed to be paid for any insurance effected or agreed to be effected or promised by him, or such agent or otherwise, or by such company against loss or injury by fire in said city of Neenah. No person shall, in said city of Neenah, as the agent or otherwise, for any individual or individuals, association or corporation, agree to effect or effect any insurance upon which the duty mentioned in the next preceding article is required to be paid, or as an agent or otherwise, procure such insurance to be effected, unless he shall have first executed to said city of Neenah, and deposited with the clerk of said city, a bond, to be approved by the mayor of said city, in the penal sum of three hundred dollars ($300), with sureties thus approved by said mayor, conditioned that he will render to said clerk of the city, on or before the first day of February next, a just and true account, verified by oath, that the same is true and just of all premiums which, during the year ending on the first day of January preceding such report shall have been received by him or by any other person for him, or agreed to be paid for any insurance against loss or injury by fire in said city, which shall have been effected or promised by him or agreed or promised by him to be effected for any individual, individuals, association or corporation; and that he will, on such first day of February, pay to the treasurer of said city of Neenah, for the use and benefit of the fire department, two dollars ($2.00) upon every hundred dollars ($100), and at that rate upon the amount of all such premiums.

Filing of bonds.

SECTION 135. Each and every such agent shall annually file such bond with said city clerk on the first secular day of January in each year; provided, that in lieu of an annual bond, any such agent may file a bond with like conditions, in the penal

sum of one thousand dollars ($1,000), which shall be a continuing bond while such agent shall engage in the insurance business in said city, and any person who shall in said city effect, agree to effect, promise or procure any insurance specified in the preceding section, without having given such bond, shall forfeit and pay for each offense and for each insurance so effected or agreed, or promised to be effected, the sum of one hundred dollars ($100); and such sum shall be recovered as other penalties or forfeitures accruing under this act; and said city may maintain an action on such bond, or against such agent, to recover all moneys required by section 134, of this act, to be paid into the city treasury.

Penalty.

SECTION 136. Any person who shall pay any premium, or agree to pay any premium for insurance on property within said city, to any person, association or corporation, who shall not have filed the bond hereinbefore provided for, shall forfeit and pay three times the amount of the percentage upon such premium, which should be paid into said treasury, as aforesaid, to be recovered as other forfeitures under this act.

TITLE 10.

PRINTING.

Printing to be let to lowest bidder.

SECTION 137. The common council shall, at its first meeting after organization in each year, or as soon thereafter as practicable, cause notice to be given that at the next regular meeting of such council, sealed proposals will be received for doing the city printing for the current council year, which notice shall contain directions as to the form of bids which will be considered, and the classes of printing for which separate bids will be received. There shall be two classes. The first class shall be denominated "folio work" and shall include the printing and publishing in a weekly public newspaper regularly printed and published in said city, and which shall have been so published at least six months prior to the date of such notice, of all ordinances, by-laws, rules, regulations, reports of officers including reports relative to the public schools, and the official minutes of the proceedings of the common council, and all notices required to be published by this act or the ordinances of said city. The second class shall

include all other printing. The bids shall specify the paper in which the folio work will be done. A copy of such notice shall be delivered by the city clerk to each printing establishment in said city. At such next regular meeting the common council shall proceed to open the bids, and shall let the same by contract to the lowest bidder: provided, such bids shall not exceed the rates allowed by law, or the ordinance provided for in the next section, and may require a bond for the fulfillment of such contract. The paper which shall secure said folio work shall be denominated the official paper of said city, and all ordinances, notices, etc., shall be published therein. The printer of said newspaper, or his foreman, shall immediately after the publication of any such ordinance, by-law, regulation, resolution, notice or official minutes, make and file with the city clerk his affidavit, showing the length of time the same has been published, which shall be *prima facie* evidence of such publication. If no bids be received within the limit allowed by law or authorized to be fixed by the common council in the next section, if it shall have fixed the same, it shall, as soon thereafter as practicable, designate any newspaper regularly published in said city as such official paper.

Maximum price.

SECTION 138. The common council may, by ordinance passed prior to the annual letting of the city printing, fix the maximum price per folio that may be charged for the printing mentioned in the first class, which shall not be less than thirty (30) cents per folio for the first insertion and twenty (20) cents per folio for each subsequent insertion. If the printer or publisher of any paper so designated as the official paper, shall refuse or neglect to publish any such ordinance, regulation, by-law, resolution, notice or official minutes, unless for reasonable cause, he shall forfeit twenty-five dollars ($25) for each offense, to be collected as other forfeitures under this act.

TITLE 11.

THE DEPARTMENT OF EDUCATION.

Board of education.

SECTION 139. The public schools of the city of Neenah shall be under the control and supervision of a board of education, consisting of the school superintendent, who shall be *ex-officio*,

president of said board, and one school commissioner from each ward, who shall be a qualified elector of said ward. A majority of such board shall constitute a quorum.

When duties to begin.

SECTION 140. The board of education herein provided for shall be organized and enter upon the discharge of its duties on the first Monday of July in 1882. The school commissioners from the first and third wards from said city, now in office, shall serve as members of such board from their respective wards until the first Monday of July in 1883. The common council shall annually, prior to the first day of June, elect one school commissioner from each ward in which the term of office of the commissioner will expire in such year, who shall hold his office for the term of two years.

Clerk.

SECTION 141. The board of education of the city of Neenah, at its first annual meeting in July, shall elect, by ballot, some suitable person, an elector and resident of said city, not of their own number, to act as clerk of said board, who shall hold his office for one year, unless sooner removed for misconduct, incompetency or other sufficient cause by a two-thirds vote of all the members of said board. Said board shall also, at its first annual meeting, determine the salary of said clerk, which shall not be increased nor diminished during his term of office.

Duties of clerk.

SECTION 142. The clerk of said board of education shall keep a full and correct record of the proceedings of said board, and all records and papers belonging thereto, which record or a transcript thereof, certified to by the clerk and president of said board, shall be received by all courts as *prima facie* evidence of the fact therein set forth, and such records, and all the books and accounts of said board shall be always subject to the proper inspection of any elector of said city, and the said books, records and accounts shall be the property of said board of education and their successors in office.

Census to be taken, and when.

SECTION 143. Between the first and tenth days of September in each year, the said clerk shall take, or cause to be taken, a census of all the children residing in said city on the last day of August of such year, between the ages of four and twenty years, and report the same to the state superintendent of public instruction as provided by law; and he shall perform such other duties as

the board may prescribe, and shall have power to administer oaths and affirmations.

President to preside.

SECTION 144. The president of the board of education shall preside at all meetings of the board when present, and in his absence one of its number shall be selected as president *pro tem.* He shall preserve order and decorum, and decide all questions of order, subject to an appeal to the board; he shall sign all orders drawn by the clerk for the payment of teachers' and janitors' wages, and all other incidental expenses which may have been allowed by said board (not including the salary for superintendent or for their own services). He shall declare the result of all questions coming before the board, and upon all questions requiring the appropriation of moneys or the adoption of text books, the ayes and noes shall be necessary to determine, and in case of a tie, said president shall have the casting vote. Any member of said board may require the ayes and noes upon any question submitted to them.

One regular meeting each month.

SECTION 145. The board of education shall have at least one regular meeting in each month, at such time and place as shall be designated by it, and it may hold special meetings at such other times as it may deem necessary; but no such special meeting shall be legal unless each member of said board shall have first been served with notice in writing of the time and place of such meeting.

Duties of board of education.

SECTION 146. The duties of the board of education shall be as follows:

1. To decide upon the number of teachers to be employed, the grade of schools to be kept by each, and the amount of salary to be paid each and to hire and make contracts with teachers and before any teacher shall enter upon his or her duties as such, he or she shall enter into a written contract, which contract shall be signed by such teacher and by the president of the board of education or by some member thereof designated for that purpose by resolution of said board. Such contract shall be made in duplicate, and one copy thereof filed with the clerk of the board of education and the other copy delivered to the said teacher.

2. To arrange and determine terms and vacations in all public schools in said city, to establish uniformity in the school system, and to require

and secure uniformity in text-books, and to adopt and reject text-books at will.

3. To establish rules and regulations for the public schools of said city, not in conflict with the laws and constitution of this state, but the mayor and common council of said city may, in their discretion, do away with, amend or abrogate any such rule or regulation by a two-thirds vote of all the members of the common council of said city.

4. To make contracts for fuel, stationery and articles of furniture required for the use of the schools; to make all necessary repairs in school houses; to provide for building and lighting fires, sweeping and care of school rooms and all such contracts, when executed, shall be paid by orders drawn on the city treasurer, payable out of the school funds of said city, which orders shall be signed by the president of the board of education, and countersigned by the clerk of said board.

5. The said board shall, annually, on or before the first day of November in each year, submit a statement to the mayor and common council of said city, showing the amount of teachers' wages that have accrued and become due during the year, and the amount of all other indebtedness accruing on contract, or otherwise, that has been made by order of the said board, and for that purpose it shall cause a record to be made in a book, or books, provided by the city, of all contracts made by the teachers, and the amount of salary to be paid, and of all other expenditures, made or authorized by said board, at the time the same shall be made or authorized, which book or books, shall be subject to inspection in the same manner as the records of the proceedings of said board, and it shall, at the same time, submit for the consideration of the common council a statement of the estimate required for carrying on the schools for the ensuing year, specifying the amount required for teachers' wages, and other items separately and specifically; nothing in this section contained, however, shall prevent the mayor and common council from taking into consideration in the levy of school taxes, the amount to be received from the state from the income of the school fund, and the amount to be received from the county school tax during the ensuing year.

SECTION 147. Whenever repairs to a larger amount than one hundred dollars ($100) shall, in Regarding repairs.

the opinion of the board of education, be required for any one school house, it shall cause a statement to be made, showing the repairs required and an estimate of the cost thereof, which statement and estimate shall be laid before the mayor and common council of said city at their next meeting, and whenever in its opinion another school house shall be required, it shall cause estimates of the cost of a site for such house or houses, and a plan of the proposed building or buildings, together with the estimates of the costs of the same, to be made by some persons of competent ability and experience, and shall submit the same for the consideration of the mayor and common council of said city, who shall forthwith proceed to provide by tax or otherwise for the amount necessary to defray the costs of such repairs or the erection of such building or buildings, and the purchase of such site or sites, unless there shall be a two-thirds majority of all the members of the common council of said city against such appropriations and improvement, in which case such proposed repairs shall not be made, nor shall such site or sites be purchased or buildings be erected. But if a two-thirds majority of said council be not opposed to such improvements and appropriations, it shall be the duty of the board of education to enter into contracts for making such repairs or for the erection of such buildings, or for the purchase of such sites whenever it shall be made to appear that the necessary tax for the same has been levied or authorized by the mayor and common council of said city.

Orders to be drawn.

SECTION 148. It shall be the duty of the president and clerk of the board of education to draw orders on the city treasurer, payable out of the school fund, for teachers' and janitors' wages and all other appropriations and expenditures authorized by this act.

No interest in any contract.

SECTION 149. No member of the board of education shall have any interest, directly or indirectly, in any contract made by said board, and every contract so made in which any member of said board shall have such interest shall be absolutely void.

Duties of city superintendent.

SECTION 150. The duties of the city superintendent shall be as follows:

1. To examine all applicants for a license to

teach in the public schools of said city, and if approved to grant certificates therefor.

2. To annul teachers' certificates whenever he may think proper; provided that such teacher shall have the right to appeal to the board of education.

3. To visit each school or school department in said city at least once during each month.

4. To report for the consideration of the board of education such text-books as he may think advisable and proper for the use of the schools, and to report such alterations therein from time to time as he may think most beneficial for the schools of said city.

5. To report to the board of education at each regular meeting relative to the condition of the schools under his supervision, and particularly as to the average attendance at each school since the previous regular meeting; to make such recommendations as shall, in his judgment, conduce to their welfare, and perform such other duties as may be required of him by the said board of education.

6. He shall, between the first and tenth days of September in each year, make a statement of the number of children, male and female, designated separately, over the age of four and under the age of twenty years, enumerated by wards, residing in the city on the last day of August previous to the day of such report, and shall in each year make and transmit to the state superintendent such reports, and at such times as are or may be required by law, a copy of which report he shall present to the board of education at its first meeting thereafter.

7. He shall attend all meetings of the board of education, and make such suggestions as he may think advisable, relative to the government of the schools in said city.

SECTION 151. The real and personal property now vested in said board of education, as such board, shall vest in the board of education provided for in this act, and with the consent of the council said board may sell and convey the same. Such conveyances shall be signed by the president and clerk of said board and sealed with the corporate seal of said city.

SECTION 152. All moneys received or collected for school purposes in said city shall be disbursed

How money shall be disbursed.

by the city treasurer of said city, only upon orders duly signed by the president and clerk of the board of education of said city, and the said city treasurer and his sureties shall be held accountable to said board of education for all moneys which may come into his hands belonging to the school fund of said city, in the same manner as he is liable for moneys coming into his hands as city treasurer.

Outside children may attend.

SECTION 153. Said board of education shall have power to allow children of persons, not residing within the city, to attend any of the schools in said city upon such terms as said board shall by resolution prescribe.

Trustees of city library.

SECTION 154. The said board of education shall be trustees of the district library in said city, and all the provisions of law which now are or hereafter may be passed relating to district school libraries, shall apply to the said board in the same manner as if they were the trustees of an ordinary school district. It shall also be vested with the discretion as to the disposition of the money appropriated by any law of the state for the purchase of libraries, which is therein conferred upon the inhabitants of school districts. It shall be its duty, whenever it shall deem it advisable, to provide a library room and all the necessary furniture therefor, to appoint a librarian, to make all purchases of books for said library, and from time to time to exchange or cause to be repaired, the damaged books belonging thereto. It may also sell any books it deems useless or of an improper character and apply the proceeds to the purchase of other books.

Report, when published.

SECTION 155. It shall be the duty of the said board, in the month of July of each year, to publish in the official paper of said city, if there be such, a full report of its doings for the preceding year.

Rules of state superintendent.

SECTION 156. The said board shall be subject to the rules and regulations which have been or may be made by the state superintendent of public instruction, so far as the same may be applicable to it, and not inconsistent with the provisions of this act.

City school limits.

SECTION 157. The territory embraced within the city limits is hereby declared to be, and is independent of the jurisdiction of the county superintendent of schools of Winnebago county.

and exempt from all taxation for his support and salary.

Continuation.

SECTION 158. The provisions of this title of this act shall be construed as a continuation of the provisions of chapter 52, laws of 1875 (so far as they are the same in substance) and not as new enactments.

TITLE 12.

OF JUSTICE COURTS, AND THE EXECUTION OF THE LAWS AND ORDINANCES.

Duties of justices of peace.

SECTION 159. Each of the justices of the peace provided for in this act, shall hold a court for the trial and determination of such actions, civil and criminal, as they have jurisdiction of as justices of the peace under the general laws of the state, or the provisions of this act. All the general laws of the state of Wisconsin, relative to the proceedings in justice courts in civil or criminal proceedings, shall apply to the courts of such justices, except as otherwise provided in this act.

Original jurisdiction.

SECTION 160. The justices of the peace of said city shall have exclusive original jurisdiction of all criminal cases arising in said city, to try and determine, or commit for trial, as may be, and of all cases, civil or criminal, arising under the ordinances, rules or regulations of said city. All the general provisions of law concerning the trial of criminal offenses, and the conducting of criminal prosecutions, appeals from the judgments of the justice, the fees of officers, and proceedings in which, upon trial, the justice finds he has not final jurisdiction of the case, shall govern trials under this act, except as otherwise provided in this act. When an act or omission, declared to be an offense by the general laws of the state, is also made an offense by the provisions of this act or the ordinances of the city, passed pursuant thereto, a conviction or acquittal in a prosecution under the general law shall be a bar to a prosecution under this act, or such ordinances. The persons accused shall have the same right to a removal of the case for prejudice as provided by the general laws of the state.

Actions, how commenced.

SECTION 161. All prosecutions for violations of the provisions of this act, or the ordinances, rules or regulations of said city, which under the provisions of this act are declared to be misdemean-

ors, shall be in the name of the state of Wisconsin, and shall be and are hereby declared to be criminal prosecutions, and be subject to the general laws of the state governing criminal prosecutions, except as otherwise expressly provided in this act. Whenever complaint is made to any such justice, by any peace officer of said city or other person, that an offense has been committed within said city, against the provisions of the charter of said city, or of the laws, regulations or ordinances passed in pursuance thereof, the justice shall reduce the complaint to writing, and the same shall be subscribed and sworn to by the complainant before such justice, and if it shall appear that any such offense has been committed, such justice shall issue his warrant requiring the officer forthwith to arrest the accused and bring him before such justice, to be dealt with according to law; provided, when the complaint is made by any person other than a peace officer of said city, the said justice, before issuing his warrant, shall require from the complainant security for costs, as in civil actions; and the persons signing as such security shall be responsible for the costs, the same as in civil actions. In all such prosecutions the following, or equivalent forms may be used:

FORM OF COMPLAINT:

Form.

STATE OF WISCONSIN, }
Winnebago County, } ss.
City of Neenah. }

A. B., being duly sworn and examined, makes complaint and says, that in said city on the ——— day of ———, A. D. 18—, one C. D. was guilty of (here state the nature of the offense), in violation of law, and prays that the said C. D. may be apprehended, to answer therefor.

A. B.

Subscribed and sworn to before me, this ——— day of ———, 18—.

——— ———, Justice of the Peace.

Upon such complaint being filed with the justice, he may issue a warrant for the apprehension of the party complained of, which warrant may be in the following form; provided, always, that in any case where an offender may have been arrested without warrant the said justice may proceed upon the complaint alone. In such cases the

complaint shall be read to the defendant, and he shall plead to the offense charged therein.

FORM OF WARRANT.

Form.

STATE OF WISCONSIN, }
Winnebago County, } ss.
City of Neenah. }

The state of Wisconsin, to the sheriff or any constable of said county:

Whereas, A——— B——— has this day complained to me in writing, on oath, that in the said city on the ——— day of ———, A. D. 18—, one C——— D——— was guilty of (here name the nature of the offense). Now, therefore, in the name of the state of Wisconsin, you are hereby commanded to arrest the said C——— D———, and bring him before the undersigned, one of the justices of the peace of said city, to answer to said complaint, and to be dealt with according to law.

Given under my hand, this ——— day of———, 18—.

E— F—, Justice of the Peace.

Disorderly persons, how punished.

SECTION 162. Any person who shall be found in or upon any street, alley or public ground within said city, or within any saloon, shop, store, grocery, hall, church, school house, barn, building or other place within said city in a state of intoxication, or who, in any of the aforesaid places, shall be guilty of immoderate drinking, improper reveling, obscenity, noisy, boisterous or disorderly conduct, or who, in any of the aforesaid places, shall use toward or in the presence of another, violent or insulting language, or be guilty of any breach of the peace, or of firing any gun or pistol, or fighting or threatening to fight, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not exceeding twenty-five dollars ($25) and costs of prosecution, or imprisonment in the county jail not more than ninety days, or both, in the discretion of the court.

Police may summarily arrest.

SECTION 163. It shall be the duty of the chief of police and all police officers of said city, and they are hereby authorized and required to summarily arrest and take before either of the justices of said city, any person offending as aforesaid, or who shall in any other manner be engaged in violating any of the provisions of this act, or any ordinance made, or to be made in pur-

suance thereof, or any ordinance existing at the time of the passage of this act, and herein declared to be in full force until altered or repealed; and upon conviction thereof, shall suffer the punishment prescribed for such offense in this act or the ordinances of said city.

Use of jail.

SECTION 164. The use of the jail of Winnebago county, until otherwise provided, shall be granted to said city for the confinement of criminals, and every such offender shall be delivered to the sheriff of said county, for whose custody, safe keeping and delivery, the said sheriff shall be responsible as in other cases.

Watch house.

SECTION 165. Said common council shall have power to build, purchase or lease, and maintain and regulate a watch house or place for the confinement of offenders, and for the temporary detention of suspected persons, and it shall be lawful for the chief of police, policeman, watchman or other peace officer to temporarily confine in the lock-up of said city, any person under arrest until such person can properly be taken before a justice of the peace for examination or trial, and for such justice, after such person shall have been taken before him, to order such person for safe keeping to be confined therein from time to time, until such examination or trial shall have been completed.

Regarding penalties.

SECTION 166. Whenever, by the provisions of this act, a penalty or forfeiture is imposed, and the act or omission for which the same is imposed is not also declared to be a misdemeanor, such penalty or forfeiture shall be collected in an action in the name of the city before either of the justices thereof, to be commenced by warrant and prosecuted in the same manner as actions of tort before justices of the peace. In such actions the city shall be responsible for the costs, and one-half the penalty shall be paid to the city, the other half to the use of the state school fund. The affidavit for the warrant shall be the complaint, and be sufficient if it allege that the defendant is indebted to the plaintiff in the amount of such fine, penalty or forfeiture sued for, claiming the highest sum thereof according to the provisions of this act, or specifying the same by section, chapter, title, or otherwise with sufficient plainness to identify the same, with a demand for judgment for the amount thereof.

SECTION 167. Judgment shall be given, if for the plaintiff, for the amount of fine, penalty or forfeiture fixed by this act, or such ordinance, resolution or by-law, or such part thereof, if a discretion be given, as the court shall deem proportionate to the offense, together with the costs of suit; and shall in all cases further adjudge and order that in default of payment thereof, the defendant be committed to the common jail of such county for such time, not exceeding ninety days, as the court shall deem fit. If such payment be not forthwith made, the justice shall make out a commitment, stating the amount of judgment and costs, and the time for which committed. Every person so committed shall be received and committed to prison by the keeper of the county jail, and kept at the expense of the county until the expiration of the time, but he shall be released by order of the justice on payment to him of such fine and costs, or by due course of law. Concerning judgments.

SECTION 168. Appeals may be taken to the county court of said county in the same manner as from judgments in civil actions before justices of the peace, except that if taken by the defendant, he shall, as a part thereof, execute a bond to the city, with surety to be approved by such justice, conditioned that if judgment be affirmed in whole or in part, he will pay the same, and all costs and damages awarded against him on such appeal; and in case such judgment shall be affirmed in whole or in part, execution may issue against both defendant and his surety; upon perfection of such appeal, the defendant shall be discharged from custody. Concerning appeals.

SECTION 169. In all cases brought for the collection of a penalty or forfeiture, by civil action, unless the affidavit be made by an officer of said city, the justice shall, before issuing his warrant, require from the complainant an undertaking, with sufficient surety, to be approved by the justice, conditioned that such complainant will pay all costs and damages which may be awarded against the city upon the final determination of such action in such justice court or any appellate court. Undertaking required.

TITLE 13.

MISCELLANEOUS PROVISIONS.

Not to work incompetency.

SECTION 170. No person shall be an incompetent judge, justice, witness or juror by reason of his being an inhabitant or freeholder in the city of Neenah, in any proceeding or action in which the city shall be a party in interest.

Shall remain in force.

SECTION 171. All ordinances, by-laws, rules or regulations now in force in the city of Neenah, and not inconsistent with this act, shall remain in force under this act until altered, modified or repealed by the common council after this act shall take effect.

Shall be absolved.

SECTION 172. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had on any subsequent day by order of the common council; and if any of the duties enjoined by this act, or the ordinances or by-laws of the city, to be done by any officers at any specified time, are not then done or performed, the common council may appoint another time at which the said acts may be done and performed.

All city property exempt.

SECTION 173. All property, real or personal, now or at any time hereafter, belonging to said city or to either of the wards thereof or any department thereof, shall be exempt from levy and sale under or by virtue of any execution. Nor shall any real or personal property of any inhabitant of said city, or of any individual or corporation, be levied on or sold under or by virtue of any execution issued to satisfy or collect any debt, obligation or contract of said city.

City may lease and purchase.

SECTION 174. The said city may lease, purchase and hold real or personal estate sufficient for the public use, convenience or necessities of said city, and may improve, sell and convey the same. All property, real, personal or mixed belonging to the city of Neenah, shall be and continue to be vested in the corporation created by this act. All officers of the city of Neenah, now in office, shall continue respectively in the same until superseded in accordance with the provisions of this act, but shall

be governed by the provisions of this act so far as the same may be applicable.

Not repealable.

SECTION 175. No general law of this state contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purpose be expressly set forth in such law.

May publish laws, etc., in book form.

SECTION 176. The common council of the city of Neenah is hereby authorized to cause this act, together with any other acts or parts of acts of the legislature of Wisconsin relating to or affecting said city, and also any ordinances, by-laws, resolutions, rules or regulations of said city or any of its departments, and any other acts, resolutions, contracts or other documents relating to or affecting said city, to be printed or published in book or pamphlet form, and the same shall be admitted and may be read in evidence in all courts in legal proceedings, from such printed books, so published by order of said common council, and such books shall be deemed *prima facie* evidence of the contents and due passage, and shall be sufficient publication of all such acts, ordinances, by-laws, rules, resolutions or regulations.

Repealed.

SECTION 177. Chapter 151, of the general laws of the state of Wisconsin for the year 1873, and several acts amendatory thereof, and all acts and parts of acts relating to the government of said city inconsistent with or contravening the provisions of this act, are hereby repealed. The repeal of said acts shall not revive any acts or parts of acts heretofore repealed, and shall not, in any manner affect, injure or invalidate any contracts, acts, grants or license accrued or established in favor of or against said city, or any proceeding, suit or prosecution had or commenced in any civil case previous to the time when such repeal shall take effect; but every such act, right or proceeding shall remain as valid and effectual as if the provisions so repealed had remained in force; but the subsequent proceedings shall conform to the provisions of this act when applicable.

Prior offense.

SECTION 178. No offense committed and no penalty or forfeiture incurred previous to the time when any of the acts aforesaid shall be repealed shall be affected by such repeal, except that when any punishment, forfeiture or penalty shall have been mitigated by the provisions of this act, the provisions of this act shall apply to and control

any judgment to be pronounced after this act shall take effect for any offense committed before that time.

Not eligible.

SECTION 179. No member of the common council shall be eligible to any other office provided for by this act, during the term for which he shall have been elected or appointed. No member of the common council shall vote upon any question, matter or resolution in which he may be directly or indirectly interested.

Null and void.

SECTION 180. No member of the common council shall be a party to, or interested in any job or contract with the city, or any department thereof; and any contract in which any such member may be so interested, shall be null and void. No member of the common council shall sign any bond as surety for the performance of any contract or agreement with such city, or official bond to such city during his term of office.

Shall not invalidate.

SECTION 181. This act shall not invalidate any legal act done by the common council of the city of Neenah, or by its officers, nor divest their successors under this act of any rights of property, or otherwise, or of any liability which may have accrued to or against said corporation prior to the passage of this act, and all ordinances, rules and regulations now in force in said city, not contravening the provisions of this act, shall be and remain and be in force until altered or repealed by the common council.

Shall not be affected by repeal.

SECTION 182. No prosecution for any offense or the recovery of any penalty, or forfeiture, pending at the time when any of the acts aforesaid shall be repealed, shall be affected by such repeal, but the same shall proceed in all respects as if such acts had not been repealed.

Public act.

SECTION 183. This act is hereby declared to be a public act, and shall be liberally construed in all courts of this state.

SECTION 184. This act shall take effect and be in force from and after its passage and publication in the official state paper at Madison, without other publication mentioned in chapter 20, of the revised statutes of Wisconsin.

Approved March 30, 1883.

[No. 177, S.] [Published April 17, 1888.]

CHAPTER 191.

AN ACT relating to and amendatory of the charter of the city of Merrill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Regarding officers of the city.

SECTION 1. Section 8, of chapter 5, of the general laws of 1883, entitled "an act to incorporate the city of Merrill," is hereby amended so as to read as follows: Section 8. All necessary officers not hereinbefore named as elective officers, shall be appointed by the council. All elective officers, except justices of the peace, shall, unless elected to fill a vacancy, hold their respective offices for one year, and until their successors are elected and qualified; provided, that the council shall have power, for due cause satisfactory to it, to expel any of its own number and to remove from office any officer or agent of the city, except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. The term of office of every officer elected or appointed under this act shall commence on the second Tuesday in March of the year for which such officer is elected or appointed, except those of superintendent of schools and school commissioner, which shall commence on the second Tuesday of July next succeeding their appointment, and the term of office of all other appointed officers shall expire on the second Tuesday of March next succeeding their appointment, unless sooner removed.

Officers of the peace.

SECTION 2. Section 26, of said act is hereby amended so as to read as follows: Section 26. The mayor or acting mayor, sheriff of Lincoln county, and each and every member of the common council, justice of the peace, marshal, constable and watchman, shall be officers of the peace and may command the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city, and for such purposes may command the assistance of all bystanders, and, if need be, of all citizens; and if any person or bystander shall refuse to aid in main-

taining the peace when so required, every such person shall pay a forfeiture of not more than fifty dollars ($50); and in cases where the civil power may be required to suppress riotous or disorderly behavior, the superior or senior officer present in the order above mentioned in this section shall direct the proceedings.

Gambling and kindred vices.

SECTION 3. Subdivision 2, of section 31, of said act is hereby amended so as to read as follows: 2. To restrain and prohibit all descriptions of gaming and fraudulent [devices] and practices, and all playing of cards, dice or other games of chance for the purpose of gaming in said city, and to restrain any person from vending, giving or dealing in spirituous, fermented or vinous liquors unless duly licensed by the council; provided that no license shall be issued by said council for the sale of spirituous, vinous or fermented liquors, at less than the following rates: For a license to sell such liquors to be drank upon the premises, or not to be drank upon the premises, and in any quantity whatsoever (meaning hereby to include both a wholesale and retail license), the sum of two hundred dollars ($200). For a license to sell such liquors in any quantity not to be drank upon the premises, the sum of one hundred dollars ($100). For a license to a druggist to sell such liquors, solely upon the prescriptions of practicing physicians, the sum of twenty-five dollars ($25).

How to prosecute—mode of procedure.

SECTION 4. Section 40, of said chapter 5, is hereby amended so as to read as follows: Section 40. Upon presentation of such application, and upon due proof made in the same manner as is required to make proof of service of the summons in civil actions in courts of record, of the publication or service of the notice hereinbefore required, the said judge or sheriff, as the case may be, shall thereupon appoint as jurors twelve reputable freeholders, residents of Lincoln county, possessing the qualifications of jurors of said county, but not residents of the ward in which such premises lie, nor interested in the result of such application. The said judge or sheriff shall thereupon issue his precept directed to said jurors, requiring them at some time therein specified, within thirty days from the date thereof, to view such premises to be specified in said precept, and to make return under their hands, to the council, whether, in its judgment, it is necessary to take or use said

premises for the purposes specified in said application. In selecting such jury, the same rights of challenge peremptorily for favor or for cause may be exercised by the city attorney or other representative of the city, and by the owner of the land sought to be taken, his agent or attorney, as a party to a civil action in the circuit court, is entitled to have; and the judge or sheriff, as the case may be, shall decide the same in like manner, and replace the name of any jurors successfully challenged with the name of some other competent person, until a jury of twelve be chosen.

What treasurer shall receive for taxes.

SECTION 5. Section 93, of said chapter 5, is hereby amended so as to read as follows: Section 93. The city treasurer shall receive city orders for city tax and county orders for county tax, but on no other account whatever shall the said treasurer receive as payment anything but coin, coin certificates, treasury notes and national currency.

School district No. 1.

SECTION 6. Section 104, of said act is hereby amended so as to read as follows: Section 104. From and after the second Tuesday in July, A. D. 1883, all the district of country within the corporate limits of the city of Merrill shall be known and designated as school district number one, of the city of Merrill, for all purposes.

Commissioner of schools.

SECTION 7. Section 105, of said act is hereby amended so as to read as follows: Section 105. The common council shall, on or before the first Tuesday in July, elect one commissioner of schools for each ward, three of whom, to be designated by the council, shall hold their offices for one year, and the remaining three shall hold for two years. Thereafter the council shall annually, on or before the first Tuesday in July, elect from each ward, where the term of office of a school commissioner expires, a school commissioner for a term of two years; and the council may make appointments of school commissioners to fill vacancies which may occur from any cause.

Two per cent.

SECTION 8. Section 119, of said act is hereby amended so as to read as follows: Section 119. No tax for general city purposes shall be levied in any year exceeding two per cent. of the assessed valuation of property in the city in that year.

Licenses, by whom signed.

SECTION 9. Section 132, of said act is hereby amended so as to read as follows: Section 132. Every license issued under the charter, or the or-

dinances of the city, shall be signed by the city clerk and sealed with the corporate seal, but no such license shall be issued by said clerk until the person applying for the same shall have deposited with the clerk the receipt of the city treasurer for the amount required to be paid therefor, nor shall any license be issued for dealing in, selling or vending spirituous, vinous or malt liquors unless the same shall have been authorized by the council, and the applicant shall have filed his receipt as aforesaid, together with a bond as required by the laws of this state, which shall be approved by the council; provided, that the sum to be paid for any such license shall not be less than the amount fixed by this charter, and that all licenses shall be granted to expire on the first day of April next following, in each year.

Right of action by the city.

SECTION 10. Section 136, of said chapter 5, is hereby amended so as to read as follows: Section 136. The city shall have a right of action against any of its officers, agents or employes, and against any person or corporation, to recover all damages which it has been compelled to pay on account of the act, default, tort, or neglect of such officer, agent, employe, person or corporation. But the liability of all such officers, agents, employes, persons and corporations, shall be ascertained and determined conformably to the general law of the state.

Disallowing claims.

SECTION 11. Section 151, of said chapter 5, is hereby amended so as to read as follows: Section 151. The determination of the council disallowing any such claim in whole or in part, shall not be final, but the claimant may appeal as in this act provided for, or may bring an action to recover the same within the time limited by law. In case action is brought by such claimant, and on the trial thereof he shall not recover a sum exceeding the amount allowed by the council, and interest thereon to the time of trial, the city shall recover costs in such action, to be ascertained and collected in the manner provided for in section 150 of this act, when costs are recovered by the city, in cases tried on appeal.

Free use of all school houses.

SECTION 12. Section 153, of said act is hereby amended so as to read as follows: Section 153. School district number one of the city of Merrill, shall have the free use of all school houses, sites, and appurtenances within the limits of said school

district, and the old school district, as it shall be constituted after this act takes effect, shall have the free use of all school houses, sites and appurtenances without the city limits until such time as a settlement can be made and a division of the property and indebtedness under the statutes in such cases made and provided. The high school of district number one of the town of Merrill shall remain intact, and shall continue under its present management until the annual meeting of 1883; thereafter it shall be continued under the management of the city of Merrill, and shall be known and designated as the Merrill high school, and the high school district shall be co-extensive with the territory of school district number one of the city of Merrill. The school commissioners of the city of Merrill, *ex officio*, shall be the high school board and shall perform all the duties of such board as required by statute on the subject of free high schools.

Tenure of office of school officers.

SECTION 13. Section 154, of said act, is hereby amended so as to read as follows: Section 154. The school district officers of school district number one, of the town of Merrill, shall continue and remain in office, and act as the school board of said school district, and perform all the duties thereof, until the appointment of such school commissioners, as hereinbefore provided. It shall be their duty, acting as such school board, to designate a proper and suitable place for holding the annual school meeting in such school district, for the year 1883, and to give proper and suitable notices thereof. At the annual school meeting of said school district number one, of the town of Merrill, in the year 1883, there shall be a full complement of school officers elected for said school district.

Sidewalks.

SECTION 14. The common council of the city of Merrill shall have power to order and direct the building of sidewalks in any part of the city, at the expense of the city at large; such expense not to exceed one thousand dollars ($1,000) in any one year, and this power shall expire upon the second Tuesday in March, A. D. 1885.

SECTION 15. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1883.

[No. 189, A.] [Published April 16, 1883.]

CHAPTER 210.

AN ACT in relation to the Seventh Ward Park in the city of Milwaukee, and to extend the provisions of chapter 235, of the laws of 1881.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

May extend seventh ward park.

SECTION 1. In case the city of Milwaukee shall purchase, by agreement with the owners, any or all of the lands and property contemplated to be taken for the purpose of extending the Seventh ward park, according to the provisions of chapter 235, of the laws of 1881, or shall so purchase by agreement any interest in, or any undivided part or share of any such lands and property, it shall be lawful for said city, and the proper officers of said city are hereby authorized and required to make an assessment of benefits on lands or premises benefited by such purchase by agreement, and to charge such lands or premises with the amount of such benefits in the same manner as is now provided by law for so charging lands or premises benefited, where lands and property are taken by condemnation for such purpose. When said city shall have purchased or determined to purchase by such agreement any undivided interest in, or any undivided part or share of lands or property to be taken for such purpose, it shall be lawful for said city to acquire the remaining interest, share or part of such lands or property by condemnation, as now provided by law for acquiring lands and property for such purpose.

SECTION 2. In case the common council of said city shall determine to purchase, by agreement with the owners, all the lands that shall be acquired for the purpose of the extension of said park under said chapter 235, the common council shall, upon the adoption of a resolution for that purpose, direct the board of public works to make and report their assessment of benefits to lands or premises that it ascertains and determines to be benefited by the purchase of such property for such purposes, in the same manner as said board would be required to ascertain and determine and make assessment of benefits, upon the confirmation of the report of the jury, in case such property had been taken under proceedings for

acquiring property for such purpose by condemnation. In case the common council shall determine to acquire for such purpose, a part only of such lands by purchase by agreement, and the remaining part thereof by condemnation, or in case any undivided interest or interests in any such lands shall be acquired by such purchase, and other interests in the same lands shall be determined to be taken by condemnation, then the common council shall, at the same time that it directs the board of public works to view the premises determined to be taken by condemnation for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of the property proposed to be taken, direct said board, also, to view the premises determined to be acquired by purchase by agreement, and the premises in which any undivided interest is determined to be so acquired, and to ascertain and determine what lands or premises will be benefited by the taking and acquiring of the property for such use, as will that taken by condemnation, as that acquired by purchase by agreement, or in which any interest is so acquired, and to make report of its determination and assessment as now required by law in case of property taken for such purpose by condemnation. After the board of public works shall have been so directed by the common council in either case aforesaid, said board shall proceed as now required by law in a proceeding for the condemnation of such lands and all subsequent proceedings, rights and duties, either of the city or its officers or of private persons or parties in relation to such assessments of benefits, including appeals therefrom, the charging of the property therewith, and the collection of the same, shall be the same and shall be governed by the same laws as are now applicable to cases of assessments of benefits by the taking of such property by condemnation.

How acquired.

SECTION 3. Authority is hereby given to said city to take by condemnation, or to acquire by purchase by agreement for the purpose of extending and completing said park, such portions of the tract of land lying east of the east line of Lake Avenue, as laid out and designated on the plat of Diedrich's subdivision of land, lying east of block one hundred (100) in the seventh ward

of the city of Milwaukee, as the common council of said city may, by resolution, determine to acquire for such purpose, and for that purpose all the provisions of said chapter 235 and of this act, applicable thereto, are hereby extended so as to include said last named tract of land, and are to be held and construed for all purposes, as if said tract of land had been originally named in and covered by the provisions of said chapter 235.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved March 30, 1883.

[No. 131, S.] [Published April 14, 1883.]

CHAPTER 212.

AN ACT to vacate certain additions to the city of La Crosse.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Plat vacated.

SECTION 1. The plat of B. S. Reppy's addition of out-lots to the village (now city) of La Crosse is hereby vacated, but this act shall not be construed to authorize the closing of any portion of Main street, State street, or the road to the town of Campbell, passing through or embracing part of the territory of said addition.

More territory vacated.

SECTION 2. All that portion of E. D. Clinton and Blackwell's addition to the city of La Crosse lying east of the east line of Fremont or Fourteenth street, south of the south line of Travis street, and north of the north line of Chase street, and that portion of the same lying west of the west line of Fremont or Fourteenth street, south of the south line of Weston street and north of the north line of Chase street therein are hereby vacated; but this act shall not be construed to authorize the closing of any part of Travis street, Chase street, Fremont or Fourteenth street, Seward or Twelfth street, or of that part of Weston street lying west of the east line of Fremont street, or of the Mormon Cooley road, passing through or embracing part of the territory of said addition.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1883.

[No. 74. S.] [Published April 17, 1883.]

CHAPTER 217.

AN ACT to amend the charter of the city of La Crosse and to confer certain additional powers upon the common council of said city.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

May extend and lay out public parks.

SECTION 1. The common council of the city of La Crosse, shall have power to lay out, extend and enlarge public parks and artificial lakes, adjoining and designed to be used with and form part of any park or parks, hereafter to be laid out and established, or which may have been heretofore acquired by said city, and to condemn and take land for such purposes, but no lands shall be taken for the purpose of an artificial lake except low-lying lands, subject to overflow by the rise of water in the La Crosse, Black or Mississippi rivers. Proceedings for the condemnation and taking of lands for sites of school houses, public markets, engine houses and other public buildings and grounds, required for use in connection therewith, and for laying out, establishing, widening or extending public squares, parks, and artificial lakes, and for all other public purposes except the laying out, opening, widening and extending of streets and alleys, shall only be commenced by the adoption of a resolution as provided in section 2, of sub-chapter 5, of chapter 135, of the laws of 1876, as amended, and shall be thereafter conducted in all respects as provided in said sub-chapter 5, for the condemnation of land for streets, except that the jury shall deduct from the damages awarded to any owner of land taken, any special benefit, if any, to be enjoyed by such owner from the improvement, and the excess of the damages over the amount of such special benefit shall alone be paid to the owner. No part of such damages, or excess of damages, or of the costs and expenses of the proceedings shall, in such cases, be assessed as benefit upon property, no part of which has been taken, but the same shall be paid by the city out of its general fund.

May compel railroad companies to do needful grading.

SECTION 2. The common council of said city of La Crosse shall have power to compel railroad companies and all other corporations and persons to do all needful and proper grading, draining and

filling, upon lands owned or occupied by them, within the limits of said city; to compel railroad companies to construct and keep in repair suitable street crossings and carriage ways over their several tracks, and place and maintain flagmen at such street crossings in said city, and during such hours of the day as the common council may designate, and prescribe and to maintain lights and other conveniences at such street crossings of their tracks as such common council may require; to prevent the obstruction of streets, lanes and highways by the engines or cars of such companies, and to require the putting up of signs to beware of cars at railroad and street crossings. In any ordinance, resolution or by-law passed pursuant to this section, said common council may provide for the punishment, by fine and imprisonment, as in other cases, of any officer, agent, or servant of any such railroad company, found guilty of a violation of such ordinance, resolution, or by-law, and provide for penalties, or forfeitures, or both, against any such railroad company neglecting or refusing to comply therewith, such penalties, or forfeitures, to be sued for and recovered by action, as for debt, either in the court of the justice of the peace for the city at large, for said city, or in the circuit court of La Crosse county.

Amended. SECTION 3. Section 9, of chapter 173, of the laws of 1882, the same being an act to amend the charter of said city of La Crosse, is hereby amended by striking out all thereof after the words "section 9," in the first line, down to and including the word "notice," in the tenth line of said section, and inserting in lieu thereof the following: Section 4, of chapter 5, of the act to which this act is amendatory, is hereby amended so as to read as follows: Section 4. On or before the time appointed in said notice, there shall be filed with the judge, or justice named therein, a copy, or copies, of the resolution, or resolutions, or of the petition, or petitions, with a copy, or copies, of the bond or bonds annexed, referred to therein, on which the city clerk shall have endorsed, or have annexed thereto, his certificate that the same is, or are, a true copy or copies, of the original petition, or petitions, and bond, or bonds, or resolution, or resolutions referred to in the notice.

Repealed. SECTION 4. Section 5, of chapter 183, of the laws

of 1881, the same being an act to amend the charter of the said city of La Crosse, is hereby repealed.

SECTION 5. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1883.

[No. 481, A.] [Published April 17, 1883.]

CHAPTER 246.

AN ACT to empower the common council of the city of Racine to grant franchises to private water companies, and contract for the use of water therefrom, and amendatory of chapter 313, of the laws of 1876, and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assemby, do enact as follows:

SECTION 1. Title 11, of chapter 313, of the laws of 1876, is hereby amended by adding at the end of said title a new section which shall read as follows: Section 10. The common council shall have power to authorize and empower any person, company or corporation to establish water works for supplying water to said city and the inhabitants thereof, and to lay pipes in the streets of said city, and erect and construct stand pipes, reservoirs, fire plugs, hydrants and fountains for the distribution of water, and to maintain the same for such length of time and under such restrictions and regulations as to the manner of laying pipes, size and kind of pipes and prices to be charged to consumers, as the council may, by ordinance or contract prescribe. Said council shall have power to contract with such person, company or corporation for a term not exceeding twenty-five years, for the erection of fire plugs or hydrants in said city, and the furnishing of water therefrom for extinguishing fires, but the annual expense of such supply shall not exceed fifteen thousand dollars ($15,000), and such sum may be raised by general tax as a part of the fire fund, and in addition to the amount authorized to be raised for a fire fund, by title 13, of said chapter 313. It is, however, hereby expressly provided, that prior to the granting of any franchises or rights under this act, and prior to the making of any contract hereunder, the common council shall ascertain the best and most favorable offer for the

Authorized to grant franchises.

construction of works and the furnishing of water which, in their judgment is obtainable from any person, company or corporation, and shall submit the question as to whether such franchises shall be granted and said contract made, to the vote of the qualified electors of said city, at a special election to be called by the mayor, under the direction of the common council; the form of the ballot and the manner of conducting and canvassing said election shall be under the direction of the common council. The common council shall have no power to grant such franchises or make such contract unless a majority of all the votes cast at such election shall be in favor thereof, nor unless three-fourths of all members of the common council shall, after such election and the canvassing thereof, vote in favor thereof.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1883.

[No. 376. A.] [Published April 17, 1883.]

CHAPTER 247.

AN ACT to amend the charter of the city of Ahnapee.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amended.

SECTION 1. Section 6, of chapter 120, of the laws of 1879, as amended by section 1, of chapter 182, of the laws of 1881, is hereby amended so as to read as follows: Section 6. The elective officers of said city shall be a mayor, a treasurer, one assessor, a clerk, a city marshal, two constables, a police justice, and three justices of the peace to be elected by the city at large, and two aldermen from each ward, and one supervisor from each ward; the said supervisors to represent said city in the county board of supervisors of the county of Kewaunee. The mayor, treasurer, assessor, marshal, clerk, police justice, justices of the peace and constables shall be qualified voters and residents of the city of Ahnapee, and the aldermen and supervisors shall be qualified voters and freeholders in the ward in which they reside. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council.

All elective officers, except justices of the peace and police justice, unless otherwise provided, shall hold their offices for one year, and until their successors are elected and qualified; provided, however, that the common council shall have power, for cause, to expel any of its own members, and to remove from office any officer or agent under the city government; due notice in writing shall first given to the officer complained of. The justices of the peace and police justice shall hold their offices for two years, and until their successors are elected and qualified.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1883.

[No. 377, A.] [Published April 3, 1883.]

CHAPTER 252.

AN ACT to incorporate the village of Kewaunee, in the county of Kewaunee, as a city.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. From and after the first Tuesday in April, A. D. 1883, all that district of country hereinafter described shall be a city by the name of Kewaunee, and the people now inhabiting and those who shall hereafter inhabit said district, shall be and constitute a municipal corporation which shall be named Kewaunee, and said corporation shall have the general powers of municipal corporations at common law, and in addition thereto shall possess the powers herein specially granted, and the authorities thereof shall have perpetual succession; and such corporation shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded in all courts of law and equity, and shall have a seal, and may change and alter the same at pleasure. Corporate name.

SECTION 2. The boundaries of the district hereby incorporated are as follows: Commencing at a point where the boundary line between fractional government lots numbers two (2) and three (3), in section number seventeen (17), in township twenty-three (23) north, of range twenty-five (25) east, intersects the shore of Lake Michigan, and Boundaries.

running thence west along said boundary line between said lots two (2) and three (3), and along the quarter line through section eighteen (18) in the town and range aforesaid three hundred and seventy (370) rods, to the quarter post on the west of section eighteen (18) on the range line between ranges twenty-four (24), and twenty-five (25) east; thence running south on said range line three hundred and twenty (320) rods to the west quarter post of section nineteen (19), town twenty-three (23), range twenty-five (25) east; thence east on the quarter section line three hundred and eleven (311) rods to the shore of Lake Michigan; thence in a northeasterly direction along the shore of Lake Michigan to the place of beginning.

Ward boundaries.

SECTION 3. The city shall be divided into three wards, as follows: The first ward shall be all that portion of said city lying north of the center of what is now known as Ellis street in the village of Kewaunee, and east of the center of what is now known as Juneau street in said village. The second ward shall be all that portion of said city lying south of the center of what is now known as Ellis street in the village of Kewaunee, and east of the center of what is now known as Juneau street in said village; and the third ward shall be all that portion of said city which lies west of the center of what is now known as Juneau street in the village of Kewaunee.

Corporate authority, in whom vested.

SECTION 4. The corporate authority of said city shall be vested in a mayor, a board of aldermen, consisting of two from each ward, who with the mayor shall constitute the common council, together with such other officers as are hereinafter mentioned, or may be created under this act.

Annual elections—when held.

SECTION 5. The annual election for ward and city officers shall be on the first Tuesday in April in each year at such place as the common council shall, by order, designate, at least thirty days prior to such election, and the polls shall be kept open from nine o'clock in the forenoon until five o'clock in the afternoon; provided that, an adjournment of one hour between the hours of twelve o'clock M. and one o'clock P. M. may be had upon due notice thereof given at the opening of the polls. Six days' notice of such elections shall be given by posting up in three public places in such city notice of the time and place of the same, signed by the city clerk, and one of such

tices shall be so posted in each ward of said
y.

SECTION 5. The elective officers of said city shall be a mayor, a treasurer, one assessor, a clerk, a city marshal, two constables, three justices of the peace, one police justice, elected by the city at large, and two aldermen from each ward, and one supervisor from each ward; and the said supervisor shall represent said city in the county board of supervisors of Kewaunee county. All of said officers shall be qualified electors and residents of said city, and the aldermen and supervisors shall be qualified electors and residents of their respective wards. All other officers necessary for the government or management of the affairs of said city shall be appointed by the common council, but officers so appointed shall be subordinate to those herein named. All officers, except justices of the peace and police justice, shall hold their offices for one year and until their successors are elected and qualified; provided, however, that the common council shall have power, for cause, to expel any of its own members, and to remove from office any officers or agents under the city government, due notice in writing and an opportunity to defend being first given to the officer complained of, and such officer shall have the right to appeal to the circuit court from any decision of the council removing him in the same manner as appeals are or may be taken from the judgments of justices of the peace; provided, however, he shall perform no official acts while the decision of the council ousting him remains unreversed. The justices of the peace and police justice shall hold their offices for two years, and until their successors are elected and qualified. Elective and appointive officers.

SECTION 7. Whenever a vacancy shall occur in the office of mayor, treasurer or supervisor, such vacancy shall be filled by a new election, which shall be ordered by the common council within ten days after such vacancy shall occur. Any vacancy in any other office may be filled by the common council by appointment. The person elected or appointed to fill any vacancy, shall hold such office and discharge the duties thereof for the unexpired term and with the same rights and subject to the same liabilities as the person whose office he shall be elected or appointed to fill. Vacancies.

Elections by ballot.

SECTION 8. All elections by the people shall be by ballot, and a plurality of votes shall elect. When two or more candidates for any office shall receive an equal number of votes for the same office, their election shall be determined by casting lots in the presence of the common council and in such manner as it shall direct.

Qualified electors.

SECTION 9. All persons who are qualified electors of the state of Wisconsin, and entitled to vote at a general election, and who have resided in the city thirty days next preceding the election, shall be entitled to vote for any officer to be elected, and be deemed qualified electors at city elections; provided, that nothing in this section shall be construed as relating to any general election.

Inspectors of election.

SECTION 10. The mayor and aldermen shall be inspectors of election, and the city clerk shall act as clerk of all city elections, or in his absence the board of inspectors may appoint an elector of said city for said purpose, and at any general election two electors thereof, in the absence of the clerk, and if the clerk be present one elector thereof shall be appointed. The president and two or more of the trustees of the village of Kewaunee shall be inspectors of election at the first city election, to be held on the third Tuesday in April, 1883, and the place of holding said first election shall be determined by the board of trustees of the village of Kewaunee by resolution or order at least ten days before said first election, and the clerk of the said village of Kewaunee shall be clerk of said first city election, and the president of the village of Kewaunee shall furnish, at the expense of said city three ballot boxes, one of which shall be marked "first ward," one marked "second ward," and one marked "third ward," and at election for city officers the inspectors shall deposit each elector's ballot in the box marked for the ward in which such elector resides. Each ballot shall have written or printed thereon the names of all persons voted for at large in said city, and also those of any ward officers for the ward in which the elector resides.

General laws of state shall govern elections.

SECTION 11. The general laws of this state relating to the challenging of votes, the proceedings thereon, the penalties for illegal voting, keeping lists of names and all other things in relation to the conduct of elections in said city, shall be in

force and prevail at all elections in said city, except as affected or changed by special provisions in this act.

How votes to be canvassed.

SECTION 12. When the polls of an election shall be finally closed the inspectors shall proceed to count and canvass the votes in each of the boxes, one box being completed before another shall be opened, and shall make a return of the number of votes for each and every office, and the number of votes for each and every person for each and every office, and shall deliver such return to the city clerk forthwith after such election, and shall declare the result, as it appears from the same. In all cases of the election or appointment of any person to office, the common council shall file with the clerk a certificate, signed by at least three of them, and countersigned by the mayor, giving the name of the person elected or appointed, and the term for which he was so elected or appointed, and the clerk shall record such certificate in a book to be provided for that purpose. Whenever a justice of the peace, or city marshal shall be elected, the city clerk shall forthwith give notice thereof, in writing, to the clerk of the circuit court of Kewaunee county, giving both the names and the terms for which elected, and upon the election of supervisors or treasurer, the city clerk shall give like notices of their election to the county clerk of Kewaunee county, and those county officers upon receiving such notices, shall file the same in their respective offices.

Special elections to fill vacancies.

SECTION 13. Special elections to fill vacancies, or for other purposes, shall be held and conducted in the same manner, and the returns thereof shall be made in the same manner as regular elections, within such time as may be provided by the common council.

What is deemed vacating an office.

SECTION 14. Any officer removing from the city, or any alderman or supervisor removing from the ward in which he was elected, or any officer who shall neglect or refuse for ten days after his election or appointment, to qualify, and enter upon the discharge of his duties, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

When term of office shall commence.

SECTION 15. The term of every officer elected under this act shall commence on the second Tuesday in April, of the year for which and in

which he was elected; provided, that every officer elected at the first election held under this charter shall enter upon his duties immediately after qualification.

New election may be ordered.

SECTION 16. Should there be a failure to elect any officer herein required to be elected, the common council may order a new election to be held in the same manner as other elections herein provided, by giving ten days' notice of the time and place of election.

Shall take oath of office.

SECTION 17. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office, and file the same with the city clerk. The treasurer, clerk, marshal and such other officers as the common council shall direct, shall severally, before they enter upon the duties of their respective offices, execute to the city of Kewaunee, a bond, with two sureties to be approved by the common council, and said common council may, from time to time, require additional or new bonds and remove from office any officer neglecting or refusing to give the same.

Duties and powers of mayor.

SECTION 18. The mayor, when present, shall preside over the meetings of the common council, and take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all executive officers of the city discharge their respective duties. The mayor shall be the chief executive officer and head of the police of the city; and in case of riot or other disturbances or apparent necessity, he may appoint as many special or temporary policemen as he may deem necessary. The mayor shall have a seat and vote in the common council. The common council shall, at its regular meeting after its election, choose one of the board of aldermen who shall be styled president of the board of aldermen, and who, in the absence or inability of the mayor, shall act as such mayor and have and possess all the rights and privileges of such officer and be subject to all the liabilities thereof.

Duties of clerk.

SECTION 19. The clerk shall perform all duties required of him by law and the ordinances of the city. He shall be keeper of the books, records and corporate seal of the city, and the records of the proceedings of the council, and shall possess the same powers that town clerks possess by law

to issue transcripts from the records of his office, and they shall, when certified by him, be received in all courts in like manner and effect. He shall perform the same duties upon the board of review of said city, as are or may be required of town clerks by law in relation to boards of review or equalization in towns. He shall draw and countersign all orders on the treasurer, and keep a record of the same. He shall file in his office all chattel mortgages, and renewals thereof, with the same effect upon the rights of parties and the validity of such mortgages as is or may be provided by the general laws of this state, in relation to the filing of chattel mortgages in the offices of town clerks, and he shall receive for such service the same compensation as is, or may be provided by law, for town clerks for the same. He shall have authority to administer oaths, and shall receive as his compensation for all duties herein imposed, such sum as the common council may, by ordinance or resolution, determine.

Jurisdiction of justices of peace.

SECTION 20. The justices of the peace elected under this act, shall have the same and equal jurisdiction, and perform all and like duties of justices of the peace elected under the general laws of this state, and shall qualify in the same manner as provided by the general laws of this state, except that the official bonds required to be given by them shall be approved by the mayor of said city.

Police justice shall execute a bond.

SECTION 21. The police justice shall, before he enters upon the duties of his office, execute to the city of Kewaunee a bond in such sum and with such sureties and conditions as the common council shall direct, which shall be approved by the mayor and filed in the office of the city clerk.

Duties of city treasurer.

SECTION 22. The city treasurer shall perform all the duties required of him by law, collect all city, county, school and state taxes, and pay over all moneys in his hands according to law. He shall keep in a proper book an account of all moneys received, and of all moneys paid out and the same shall at all times be open to the inspection of the voters of the city. He shall make reports quarterly and render an itemized account to the common council of all sums received, when and by whom the same were paid, and also of all moneys by him paid out, and all moneys raised,

received, recovered or collected by means of any tax, license, penalty, forfeiture, fine or otherwise, belonging to the said city under the authority of this act, shall be paid into the treasury of said city, and shall not be drawn therefrom, except by an order issued by order of the common council, and signed by the mayor or acting mayor, and countersigned by the city clerk. The treasurer shall have the same powers and be subject to the same laws and liabilities, and governed by the same laws as treasurers of towns in this state; provided, that he shall receive no fees except the compensation hereinafter provided, and shall pay over state, county and district school tax, in the same manner and at the same time, as is provided by law, in the case of treasurers of towns in this state.

Duties of marshal.

SECTION 22. The marshal shall perform such duties as shall be prescribed by the common council for the preservation of the public peace and safety, and the collection of license money and fines. He shall possess all the power and authority of constables of towns and be subject to the same liabilities. It shall be his duty to execute all writs and processes to him directed, and when necessary in criminal cases or for the violation of any ordinance of said city or law of this state may pursue the person named therein and serve such process in any part of this state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and remove all obstructions in the streets or alleys of said city, and to abate all nuisances in said city; to apprehend, with or without warrant, any person in the act of committing any offense against an ordinance of said city, or the laws of this state, and within a reasonable time bring such person before competent authority for examination, and for such services he shall receive such fees as are allowed by law to constables for like service in this state. He shall have power to appoint one or more deputies subject to the approval of the common council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties. Such deputies shall also take and subscribe the proper oath of office which shall be filed in the office of the city clerk, and when duly qualified as aforesaid, such deputies

shall possess all the power and authority of, and be subject to the same liabilities with the marshal.

Penalty for failure to deliver.

SECTION 24. If any person having been an officer in said city shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects belonging to said city pertaining to the office, he shall forfeit and pay to the use of the city the sum of one hundred dollars ($100), besides all damages caused by his neglect or refusal to deliver over the same, and such successor may recover possession of such books, papers and effects in the manner prescribed by law in this state.

No officer to be interested in any job.

SECTION 25. No mayor, alderman or street commissioner shall be interested in any job or contract with the city, or any of the wards thereof, but any such contract shall be null and void, and in case any money has been paid out upon any such contract, the common council may sue for and recover back the same in the name of the city.

Officers of the peace.

SECTION 26. The mayor, acting mayor, each alderman, justice of the peace, marshal, policeman and watchman and constable shall be officers of the peace, with the usual powers of peace officers, and may suppress in a summary manner all riotous or disorderly behavior, and for such purpose, may command the assistance of all bystanders, and if any person, bystander or private citizen shall refuse to aid in maintaining the peace when so required, such person so refusing shall be guilty of a misdemeanor and pay a fine of not less than five (5) nor more than fifty dollars ($50) upon conviction thereof.

Powers of police justice.

SECTION 27. The police justice shall have sole and exclusive jurisdiction of all offenses against the provisions of this charter and the ordinances and by-laws and police regulations of the common council of the city, and in cases of contempt of his court, the police justice shall have the same power and authority as justices of the peace. He may administer oaths and take acknowledgments the same as justices of the peace, and he shall be entitled to receive for his services the same compensation as is or may be allowed by law to justices of the peace for similar services, and such other compensation as the common council may allow and prescribe. In case of the absence, inability, incompetency or sickness of the police jus-

tice, any other justice of the peace within the city may perform the duties of, and exercise the jurisdiction herein conferred upon the police justice. Appeals may be taken from, and writs of *certiorari* issued to the police justice in the same manner as in the case of justices of the peace.

Justices of peace—their powers and duties.

SECTION 28. The justices of the peace of said city shall possess and exercise the same and like powers, jurisdiction and duties, and shall be subject to the same liabilities and regulations as are conferred upon and required of justices of the peace of the several towns of this state. All prosecutions for a breach or violation of any by-law, ordinance or regulation, shall, in all cases, be commenced in the name of the city of Kewaunee, and the same proceedings shall be had in all civil and criminal actions before said justices of the peace, or police justice, when not otherwise herein directed, as are established and required to be had in civil and criminal actions and proceedings by the laws of this state before justices of the peace, and in all cases of prosecution for a breach or violation of an ordinance, by-law or regulation of said city or its charter, either plaintiff or defendant shall have the same right of appeal under the same conditions and requirements as now are or may be provided by the laws of this state for taxing appeals. All fines and penalties imposed for violation of any city ordinance, resolution, by-law or regulation shall belong to and be paid over to the treasury of said city, and be a part of the finances of said city.

Payment of fines into treasury.

SECTION 29. The police justice and any justice acting in his stead, shall account for and pay over to the treasurer of said city, all fines and penalties collected by him and belonging to said city. Said justices shall be entitled to receive in all cases had before them in which said city is interested, the same fees as are provided by law for justices of the peace of the several towns in this state in similar cases had before them.

Duty of city assessor.

SECTION 30. The city assessor shall assess the real and personal property of said city, at the time and in the manner provided for assessing property in the towns of this state, and shall perform all other duties prescribed and directed by this act for him to perform, and his compensation therefor

shall be fixed and determined by the common council at the beginning of his official year.

Duty of street commissioner.

SECTION 31. It shall be the duty of the street commissioner to see that all ordinances of the city relating to the obstruction and cleaning or closing, or encumbering sidewalks, cross-walks, streets, bridges, alleys, public grounds, gutters, sewers and waters in said city, are duly observed and kept, and he shall have the general supervision over all grading, paving, graveling, planking, repairing and cleaning streets, bridges, alleys, public grounds and gutters, and such other duties as the ordinances of the city shall prescribe, and he shall receive therefor such compensation as the common council shall prescribe.

Common council, how constituted.

SECTION 32. The mayor and aldermen shall constitute the common council, and shall not receive any compensation for their services unless they be acting as inspectors of election, and the style of all ordinances shall be: "The mayor and common council of the city of Kewaunee do ordain, etc." A majority of the aldermen shall constitute a quorum, but a smaller number may adjourn from time to time.

Meeting of common council.

SECTION 33. The common council shall hold its first annual meeting in each year on the first Tuesday after the regular city election, and thereafter meetings at such times as it shall appoint; and the mayor may call special meetings, by notice to each of the members, to be served personally, or left at their several places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualifications of its own members, and have power to compel the attendance of absent members by fine or otherwise.

Shall have management and control of finances.

SECTION 34. The common council shall have the control and management of the finances and of all the property of the city; and shall, in addition to the powers herein enumerated or vested in it, have full power to make, ordain, establish, publish, enforce, alter, modify, amend or repeal all such ordinances, rules and by-laws, for the suppression of vice and immorality, for the prevention of crime, and for the benefit of trade and commerce and health, as it shall deem expedient, declaring and enforcing fines and penalties, and to enforce the same against any person or persons who may violate any of the provisions of such or-

dinance, rule, or by-law, and such rules, ordinances and by-laws are hereby declared to be and to have the force of laws; provided, they are not repugnant to the constitution and laws of the United States, or of this state.

Powers of council.

SECTION 35. The common council shall have power to license and regulate the exhibition of common showmen and shows of any kind, or the exhibitions of caravans, circuses, theatrical performances, concerts, billiard, bagatelle or pigeon hole tables and bowling saloons, and to provide for the abatement and removal of nuisances under the ordinances or at common law, and to grant licenses for selling spirituous, vinous or fermented liquors, and to regulate and license groceries, taverns, victualing houses, and all persons dealing in or vending spirituous, vinous or fermented liquors, and to revoke the same for a violation thereof. The sum paid for any such license shall not be less nor more than the amount per annum fixed by the general laws of this state, and bonds shall be given by sellers of intoxicating liquors in the [———] and licenses issued, refused or revoked in the manner and with the same authority as is conferred upon the supervisors of towns by the laws of this state; and all licenses for the sale of intoxicating liquors shall run from the first of May in each year until the first day of May next following; provided, that when any license shall be applied for after that date the same may be granted to expire on the first day of May next succeeding such application, the applicant paying a *pro rata* therefor; but no license shall be granted for a longer period than one year.

Regulate and license taverns, saloons, etc.

1st. To suppress, restrain and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice and other games of chance, and to restrain, prohibit and suppress, license and regulate hawkers and peddlers, and to restrain and prohibit the selling or giving away, without license, of any ardent or intoxicating liquors or drinks; provided, that any person selling, vending or giving away such liquors without license, shall be amenable to the general laws of this state in relation to the sale of such liquors without license, as well as to the ordinance, by-law or regulation of said city prohibiting the same, and may be prosecuted and punished under both.

2nd. To prevent riots, noise, disturbance or disorderly assemblages; to suppress or restrain disorderly houses and houses of ill-fame. Riots, etc.

3d. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, butcher shop, meat market, stable, barn, privy, sewer, or other unwholesome house or place, to cleanse, remove or abate the same, from time to time, as often as it may be necessary for the health, comfort or convenience of the inhabitants of said city. Nauseous places.

4th. To direct the location and management of slaughter houses and markets, and to prevent the erection of and use and occupation of the same. Slaughter houses.

5th. To prevent the encumbering of, or obstruction of, or encroachment upon streets, sidewalks, crosswalks, lanes or alleys, with anything whatever. Encumbering of streets.

6th. To prevent horse racing, immoderate driving in the streets, and to regulate the places of bathing or swimming within the limits of said city. Horse racing.

7th. To restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the restraining, impounding and sale of the same. Impounding strays.

8th. To prevent the running at large of dogs and to authorize the destruction of the same when at large contrary to the ordinance. Dogs.

9th. To prevent persons from bringing, depositing or having within said city, any putrid carcass or unwholesome substance, and to require the removal of the same by any person who may have upon his premises any such substance, any carcass or fish, hides or skins of any kind, or in default to authorize the removal thereof, by some competent officer, at the expense of such person or persons. Unwholesome substances.

10th. To establish and make public pounds, pumps, wells, cisterns and reservoirs of the city; to regulate and license hacks, cabs, drays, carts, and the charges of hackmen, cabmen, draymen and cartmen in the city, and to erect lamps for lighting the streets, public grounds or public buildings, with gas or otherwise. Pounds.

11th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of Cemetery grounds.

the bills of mortality, and to exempt burial grounds set apart for public use from taxation.

Riding and driving on sidewalks. 12th. To prevent all persons riding or driving any animal on the sidewalks in said city, or in any other way doing damage to such sidewalks.

Firearms and crackers. 13th. To prevent the shooting of firearms or fire crackers, and to prevent the exhibition of fireworks in any place or situation which may be considered, by the council, dangerous to the city or to any property therein, or annoying to the citizens thereof.

Drunkenness 14th. To restrain drunkards, immoderate drinking or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person who may be guilty of the same.

Runners and solicitors. 15th. To restrain and regulate runners and solicitors for stages, cars, public houses and other establishments.

Government of police. 16th. To make rules, regulations and ordinances for the government of the police of the city.

Public markets. 17th. To establish public markets, and make rules and regulations for the government of the same.

Hay and fuel. 18th. To regulate the place or places and the manner of selling hay, and measuring and selling fuel, lime and other gross commodities, and to appoint suitable persons to superintend and conduct the same.

Snow and dirt. 19th. To compel the owners or occupants of buildings or grounds, when the same are occupied, to remove snow, dirt and rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health may direct; and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Infectious diseases. 20th. To regulate, control and prevent the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to best preserve the health of the city.

Public auctions. 21st. To regulate the time, place and manner of holding public auctions and vendues.

Watchmen. 22d. To appoint watchmen and prescribe their duties.

23d. To provide by ordinance for a standard of weights and measures. Weights and measures.

24th. To protect trees and monuments in said city. Ornamental trees.

25th. To prescribe and regulate the construction of sewers within said city. Sewers.

26th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes, alleys, and to keep them free from any incumbrances, and to protect them from injury. Repair of streets.

27th. To make, alter or change the name of any street in the city. Change names of streets.

28th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations not contrary to the constitution of this state, necessary for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof. Ordinances.

SECTION 36. All laws, ordinances and regulations, resolutions and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in a newspaper published in the city one week before taking effect, and within fifteen days after such publication they shall be recorded by the city clerk in books provided for that purpose; but before any such by-laws, ordinances or regulations shall be recorded, the publication thereof as herein provided shall be proved by the affidavit of the printer or foreman of the newspaper in which the same shall be published, and the said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of such publication. Respecting the making of ordinances.

SECTION 37. The power conferred upon said council, to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without license, houses or buildings of any kind where more than one hundred pounds of gunpowder are deposited, stored or kept at any one time, are hereby declared to be and shall be deemed nuisances. Shall not bar suits.

Council shall examine and adjust accounts.

SECTION 38. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, street commissioner and marshal, and other officers or agents of the city, at such time as it may deem necessary, and also at the end of each year, and before the time for which the officers of said city are elected or appointed has expired; and the common council shall require each and every officer and agent to exhibit his books, accounts and vouchers, for such examination and settlement; and if any such officer or agent shall refuse to comply with the orders or requirements of the council in the discharge of their duties, in pursuance of this section, or shall neglect or refuse to render their accounts, or present their books and vouchers to said council, it shall be the duty of such council to declare the office of such person vacant; and the common council shall order suits and proceedings against any officer, or person, or agent of said city who may be delinquent or defaulting in his accounts or discharge of his official duties, and shall make a full record of any such settlements with officers or agents of the city.

Control of funds.

SECTION 39. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon orders authorized by a vote of the council, and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest upon any outstanding bonds or debt of the city. All orders shall be payable to the person or order of the person in whose favor they may be drawn.

Tax levy.

SECTION 40. The common council of said city shall annually levy upon the taxable property of said city, to defray the current and lawful expenses of said city and its schools, a tax sufficient to defray the same; provided, that said common council shall not levy a tax for general purposes exceeding one-half of one per centum upon the assessed valuation of said city in any one year, unless authorized to raise a greater sum by a

majority of the electors of said city, at a general or special election.

May issue bonds.

SECTION 41. The common council of said city shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law; nor shall the common council issue in any one year orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act.

Accounts to be verified.

SECTION 42. No account shall be allowed by the common council unless the same is properly verified by the oath of the owner thereof, or some person in his behalf, except it be for street work or hire under the supervision of the street commissioner, duly certified by him.

Action of council to be final.

SECTION 43. When the claim of any person against the said city shall be disallowed, in whole or in part, by the common council, the determination of the common council disallowing the same in whole or in part, shall be final and conclusive, and a bar to any action in any court founded on such a claim, unless an action to recover the same shall be commenced within sixty days after such disallowance by the common council.

Powers of council in regard to streets, etc.

SECTION 44. The common council shall have power to lay out public streets and alleys and to widen the same as follows: Whenever five or more freeholders residing in any ward shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for public use, for the purpose of laying out public streets or alleys, or the enlarging of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to such petitioners, to be set forth in such petition, the common council shall thereupon cause notice of such application to be given to the owners or occupants of such lands, if any there be, or if any portion of such lands shall not be in the actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in a newspaper published in said city four weeks successively, at least once in each week.

Proceedings required for taking land.

SECTION 45. Such notice shall state that upon a day therein named, not less than ten days from the service of such notice or expiration of such publication, as the case may be, that application will be made to a court commissioner of said county of Kewaunee, or to a justice of the peace residing in said city, and not in the ward in which such lands are situated, for the appointment of twelve jurors to view said premises and to determine whether it will be necessary and proper to take the same for the purposes specified in said petition.

Appointment of jurors.

SECTION 46. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said court commissioner or justice of the peace shall appoint twelve resident freeholders, residents of said city, but not residents of the ward in which such premises may be and not interested in the result of such application. The said court commissioner or justice of the peace shall thereupon issue his precept directed to said jurors, requiring them within ten days to view the premises to be specified in said precept, and to make return under their hand, to the common council, whether in their judgment it is necessary and proper to take such premises for the purpose specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as such jurors in the premises, which oath may be administered by any person authorized to administer oaths, and shall be filed in the office of the city clerk.

Marshal to serve precept.

SECTION 47. The city marshal shall serve the said precept immediately upon the jurors therein named, by reading the same to each one that can be found, and immediately after such service he shall return the said precept to the justice or court commissioner who issued the same, together with his doings thereon; and if the jurors so appointed cannot be found or shall be disqualified from acting, or shall refuse to act, the justice or court commissioner shall appoint others in their places, and a memorandum of such substitution shall be endorsed on the precept.

SECTION 48. The jurors at such times as they shall agree upon, or as shall be designated in said

precept, shall proceed in a body to view the premises in question, and shall hear such testimony as may be offered by any party interested, which testimony shall be reduced to writing, and either of the jurors shall be authorized to administer oaths to witnesses. After viewing the premises in question and hearing testimony if offered, the jurors shall make a report of their proceedings, which shall be signed by them, and which shall state whether, in their judgment it is necessary to take the premises in question for public use; which said report, testimony and precept shall be returned to the common council. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings confirming said report, and directing the same jurors, within twenty days thereafter, to again view said premises to ascertain the amount of the damage to be paid the owner or owners of said property proposed to be taken, and to assess and return within the twenty days such damages to the common council, who shall enter an order confirming the same. Jurors shall view premises.

SECTION 49. If there should be any building in whole or in part, upon said lands to be taken, the jurors shall first estimate the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and, secondly, the value of such building to him to remove. Value to be estimated.

SECTION 50. At least ten days' notice of such determination shall be given to the owner, or his agent, if known, and a resident of the city; if not known, or a non-resident, notice to all persons interested shall be given by publication in a newspaper of said city for three successive weeks. Such notice shall specify the building and the award of the jurors, and it shall require the parties interested to appear by a day named therein, and give notice of their election to the common council, either to accept the award of the jurors and allow such buildings to be taken with the land appropriated, or their intention to remove such building, and he shall have such time to remove such building as the common council may allow. Notice to be given.

SECTION 51. If the owner shall refuse to take the building at the value assessed by the jurors, to remove, or fail to give notice of his election as If owner refuse to take building at value assessed.

aforesaid, within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale, and the proceeds shall be paid to the owner or deposited for his use. If the lands or buildings belong to different persons, or if the lands be subject to lease, judgments or mortgages, or if there be any estate in them less than an estate in fee, the injury done to such persons or interest respectively, shall be awarded to them by the jurors.

Award to be signed.

SECTION 52. The award of said jurors shall be signed by them and returned, together with the testimony taken, and the precept, to the common council within the time limited in such precept. Any person whose property is taken or against whom any assessments are made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages to the circuit court of Kewaunee county, by causing a written notice of such appeal to be served on the clerk of said city and executing a bond to said city conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court; said bond to have a good and sufficient surety, to be approved by the clerk of said city or the county judge or court commissioner.

Damages to be first tendered.

SECTION 53. The lands required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owners thereof, or party entitled, shall be paid or tendered to the owner, or party entitled thereto, or his agent, or in case the owner or party entitled thereto, or agent, cannot be found, or is unknown, deposited to his credit in some safe place of deposit, and then, and not before, such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds opened or laid out. The damages assessed shall be paid within one year, or tendered, or deposited as herein required, and if not so paid, tendered or deposited within one year from the confirmation of such assessment, the proceedings shall be void.

When guardian to be appointed.

SECTION 54. When any known owner of lands, or tenements, affected by any proceedings under

this act, shall be an infant, or labor under legal disability, the county judge of Kewaunee county, on the application of the mayor of the city, or such party, or his next friend, shall appoint a guardian for such party, and all notices required by this act shall be served upon such guardian. Whenever any street, alley, or public grounds shall be laid out under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof, to be made and filed in the office of the clerk.

Property subject to taxation.

SECTION 55. All property, real and personal, within the city, excepting such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government, schools and the payment of debts and liabilities and the same shall be assessed in the manner hereinafter provided, and the assessor elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act; provided, that the common council may prescribe the form of assessment roll and more fully define the duties of assessors, and make such rules and regulations in relation to revising, altering or adding to such rolls as it may, from time to time, deem advisable. When the assessment roll shall be completed, which shall be before the last Monday in June, the assessor shall return the assessment roll to the board of equalization of the city. The board of equalization or review may supply omissions in said roll and may exercise in relation to said roll and assessment the same powers and duties as are or may be by law conferred upon town boards of review or equalization. If it shall appear to the assessor that any lot or parcel of land was omitted of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omitted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall bear the same force as it would have had if made the year when the same was omitted. Should the tax or assessment upon any parcel of land be set aside or declared void, by reason of any defect or informality not affecting the equity and justice of the tax

itself, the common council shall cause the tax or assessment, so set aside or declared void, to be relevied in such manner as it shall direct by ordinance.

Board of equalization.

SECTION 56. The three supervisors, the clerk and the assessor shall constitute the city board of equalization or review, and shall meet on the last Monday in June, in each year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are required by law to proceed, so far as the same are applicable, revising, correcting and equalizing the assessment roll of the city. When the assessment roll shall be completed, revised and corrected, it shall be filed with the clerk. Thereupon the common council shall, by resolution, levy such sum or sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be raised or levied; but not exceeding the authorized percentage, stating particularly the purpose for which the same are levied. All changes of the assessment roll by the board of equalization shall be recorded by the clerk. All taxes and assessments, general and special, levied under this act shall be and remain a lien upon the lands and tenements upon which they must be assessed and on all personal property of any person or body politic assessed for personal tax, from the delivery of the warrant for the collection thereof until paid.

Clerk to make out tax roll.

SECTION 57. It shall be the duty of the city clerk, immediately on the receipt of the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with the city and school district and other local taxes, and adding thereto two per cent. for expense of collection, in an additional column prepared for that purpose in the assessment roll, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed thereon in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent; and the clerk shall immediately make out a duplicate copy of such assessment roll, when thus completed, and deliver the same to the treasurer on or before the second Monday in December in each year, and annex to each assessment roll so delivered, a war-

rant under the hand of the clerk, and the corporate seal of the city, substantially in the form, which is or hereafter may be provided for tax warrants, by the general laws of this state relating to the collection of taxes by town treasurers. The assessment roll, and warrant thereto attached, shall be *prima facie* evidence in all courts that the lands and persons therein named were subject to taxation, and that the assessment was just and equal, and the common council shall have power to extend the time for collecting taxes under said warrant as provided by law.

General laws to be in force.

SECTION 58. All the general laws of this state which are now or hereafter may be in force, relative to the assessment and collection of taxes, and the enforcing of payment thereof, shall be in force in said city, except as otherwise herein specially provided; and the city treasurer shall receipt for said tax roll, and proceed to collect the taxes and all assessments of said city in the same manner as is required by law of town treasurers to collect taxes, except as herein provided.

Notice of receipt of tax roll to be given in newspaper.

SECTION 59. Upon the receipt of the tax roll and warrant by the treasurer, he shall give public notice, in a newspaper published in said city, that such tax list has been delivered to him for collection, and that he will receive payment of taxes at his office for the term of thirty days after the date of such notice. If the taxes are not paid in that time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written notices in as many public places in said city.

Fees.

SECTION 60. The treasurer shall collect as fees for the collection of taxes, two per cent. on all taxes collected by or paid to him prior to the second Monday of January in each year, and three per cent. upon all taxes or assessments paid to or collected by him after the second Monday in January, and in case of a distress or sale made by him of goods and chattels for the payment of any tax, he shall collect the same fees as are allowed by law to constables on sale of goods upon execution.

In case treasurer is unable to collect.

SECTION 61. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the

tax list, he shall proceed in all things as required by the laws of this state and any act that may hereafter be passed, amendatory of said acts and in addition thereto.

Poor laws.

SECTION 62. The laws of the state for the relief and support of the poor in towns shall apply to said city, and the common council shall appoint one or more of its members to act as overseers of the poor of the city, who shall perform all the duties of overseers of the poor in towns.

City schools.

SECTION 63. The common schools and the high school of the city of Kewaunee shall be under the control and supervision of the district board of each district, the same as if this act had not been passed, and the boundaries of and territory within said common and high school districts, shall not be changed or affected by this act, but shall remain as they now exist and be managed and controlled as common and high school districts formed of a city and adjoining towns, or parts of adjoining towns, and the same relation shall be sustained between such city and such schools, as near as may be, as between towns and school districts therein, and the same reciprocal powers and duties, except that the mayor and common council of the city, and not the supervisors aforesaid, shall constitute a board for determining, altering or managing the boundaries of such districts in any case in which, by the general laws of this state, such power may be given or construed to apply to either of such bodies.

City may sue and be sued.

SECTION 64. The city of Kewaunee, in its corporate name, may sue for and recover any and all fines, penalties and forfeitures, under said city charter or acts amendatory thereof, or under the ordinances thereof, any general law of the state to the contrary notwithstanding, and in case of a penalty or forfeiture the action shall be brought as a civil action, and it shall be sufficient to allege in the complaint that the defendant is indebted to the plaintiff in the amount of the forfeiture claimed, specifying the section and chapter of the statute or the section and number of the ordinance, by-law or regulation under which it is claimed, and the time when the act or acts constituting the breach of such statute or ordinance was committed, and the first process in such actions shall be a summons or civil warrant, and the judgment therein may be enforced as in

cases of tort before a justice of the peace. Such summons or warrant shall be in the form in general use and prescribed by the laws of this state, shall be made returnable and served in the same manner as is now or hereafter may be prescribed by the laws of this state, and all the proceedings in such actions shall be governed by the laws of this state relative to actions for tort before justices of the peace; provided, that when the act complained of as contrary to this charter or any ordinance, by-law or regulation made in pursuance thereof, is specially declared by law to be a misdemeanor, it shall be deemed a misdemeanor, and the proceedings shall be had under and governed by the general laws of this state in relation to the prosecution and punishment of misdemeanor in justice court.

Prima facie evidence.

SECTION 65. A printed copy of an ordinance, by-law or regulation, passed by the common council, and published in a newspaper, or in a pamphlet or book form, purporting to be published by authority of the common council, or certified by the clerk of said city to have been so published, shall be presumptive evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court in this state.

Witnesses and jurors shall attend without prepayment of fees.

SECTION 66. Witnesses and jurors shall attend before the police justice and justices of the peace in all city and criminal suits, without payment of fees in advance, upon a process duly served, and in default thereof, their attendance may be compelled by attachment.

Findings of jury.

SECTION 67. In city prosecutions, the finding of the court or jury shall be, guilty, or not guilty. If guilty, the court shall render judgment against the defendant for the fine, forfeiture or penalty prescribed in this act, or in an ordinance, by-law or regulation, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution as in other cases of tort in justice court, or a commitment in cases of misdemeanor, and shall, in either case, determine and enter upon his docket, the length of time the defendant shall be imprisoned for non-payment, which in no case shall exceed six months, and also insert such time

in the execution or commitment. The form of the execution and commitment shall be the same as near as may be, as are prescribed in similar or like cases in justice courts in the state.

Any party may appeal.

SECTION 68. Any party feeling aggrieved by the judgment in any action commenced under the provisions of this act may appeal from such judgment and have a trial *de novo* upon such appeal to the circuit court of Kewaunee county, in the time and manner provided by law for appeals from justices' court.

Shall not work incompetency.

SECTION 69. No person shall be incompetent as a witness, judge, justice or juror by reason of his being an inhabitant of said city, in any action or proceeding in which the city shall be a party in interest.

Village ordinances to remain in force.

SECTION 70. All ordinances, by-laws and regulations now in force in the village of Kewaunee and not inconsistent with the provisions of this act, shall remain in force until altered, modified or repealed by the common council after this act shall take effect.

General bridge law to be in force.

SECTION 71. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, shall apply to all bridges within said city, and the common council may also make such by-laws, ordinances and regulations as it may deem necessary for the preservation of said bridges, and enforce the same by fine or forfeiture.

Private property not liable for judgments against city.

SECTION 72. No real or personal estate or property of any inhabitant or corporation of said city shall be levied on or sold to satisfy any contract or debt or obligation against said city or any judgment against said city.

Contracts to be let to lowest bidder.

SECTION 73. All contracts for work ordered by the common council shall be let to the lowest bidder, who shall comply with the requirements of the common council. All bids or proposals shall be sealed and deposited with the city clerk, and the common council may require a bond with two sufficient sureties from any person taking a job or contract, conditioned for the faithful performance of such contract.

Remission of penalties.

SECTION 74. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a two-thirds vote of the aldermen elect.

City may have and hold personal estate.

SECTION 75. The said city may have, purchase or hold real and personal estate sufficient for the

convenience of the inhabitants thereof, which shall be exempt from taxation, except as provided by the general law of this state, and said city shall succeed to and be the owner of all property, choses in action, public commons, streets and real estate which now belongs to the village of Kewaunee.

Deeds, etc., by whom signed.

SECTION 76. Deeds or leases executed by the city shall be signed by the mayor and countersigned by the clerk; and the clerk shall attach to said deed or [lease] a true copy of an ordinance or resolution of the common council, authorizing the same, and the corporate seal of the city shall be affixed to such deed, and the officers aforesaid shall acknowledge the execution of the same in like manner and with like effect as deeds of individuals or natural persons.

In case elections are not held.

SECTION 77. If, for any cause, elections in said city should not be held at the time or in the manner prescribed, or if the council should fail to organize as provided, it shall not be cause for suspending or abolishing said corporation, but such election or organization may be had at any subsequent day by order of the mayor; and if any of the duties enjoined by this act, or by the ordinances of said city, to be done at any specified time, be not done or performed at such time, the common council may appoint another time at which said act or acts may be done and performed.

Not repealing.

SECTION 78. No general law of this state contravening the provisions of this act shall be considered as repealing, amending or modifying the same, unless such purposes be expressly set forth in such law.

Transfer of village property to city.

SECTION 79. The village clerk of the village of Kewaunee and the clerk of the town of Kewaunee, shall immediately after the city officers are elected and qualified, deliver over all books, papers and property of the village of Kewaunee to the city clerk, and the treasurer of the town of Kewaunee and the treasurer of the village of Kewaunee shall pay over all the money in their hands and all the books and property in their hands belonging to the village of Kewaunee to the city treasurer.

Apportionment of indebtedness.

SECTION 80. The board of supervisors of Kewaunee county shall, at their first meeting after May 1, 1883, apportion the indebtedness of the town of Kewaunee to the state under chapter 10,

laws of 1880, or that portion of such indebtedness that remains unpaid at that time upon the city of Kewaunee, and that portion of territory which now constitutes the town of Kewaunee according to the last assessment of the property of said town and of the village of Kewaunee, the city of Kewaunee being chargeable with that proportion of such indebtedness which the whole assessed valuation of the village of Kewaunee, at the last assessment, bears to the whole assessed valuation of the town and village of Kewaunee at the last assessment; and said board of supervisors shall forthwith transmit to the secretary of state, of the state of Wisconsin, a certificate of such apportionment, showing the amount of such indebtedness to be paid by the city of Kewaunee, and the amount of such indebtedness to be paid by the town of Kewaunee, and the secretary of state shall, each year, until the whole loan is paid, furnish to the county clerk of said county, at the same time he furnishes to that officer a statement of the state tax, a statement showing the amount which will be due upon said loan from said city, and another statement showing the amount due upon said loan from said town of Kewaunee. It shall be the duty of the county clerk of Kewaunee county on receiving such statements, to include the amount due from said city in his apportionment of the state taxes to said city, and the amount due from said town, in his apportionment of the state taxes to said town, but in each case it shall be carried out in a separate column, and the town clerk of said town and the city clerk of said city, shall change the respective amounts on their tax rolls, and the tax shall be collected as other taxes, and shall be paid over with the state tax to the county treasurer, who shall pay it over to the state treasurer with the state taxes.

City to be regarded as a town for equalizing purposes.

SECTION 81. The board of supervisors of Kewaunee county shall regard the city of Kewaunee as a town in equalizing the assessment rolls of the several towns in said county, as provided by law, but in such equalization shall not change the relative valuation of the different wards. The said board of supervisors may levy taxes as now is or may hereafter be provided by law in relation to towns, but shall proceed therein without regard to the division of the city into wards and shall cause the amount of taxes so levied to be certified

to the city clerk in the manner provided by law in relation to towns or town clerks, and in all transactions of the board of supervisors of said county, said city shall be regarded as a town except as herein otherwise provided.

Copy of assessment roll to be made.

SECTION 82. Before the annual meeting of the board of supervisors of Kewaunee county, and by the time required by law for the return of the assessment from the several towns, the city clerk shall transmit a copy of the assessment roll or such statement as is required by law to be made by towns, to the county clerk of said county, who shall lay the same before the board of supervisors at its annual meeting.

Sale of delinquent lots.

SECTION 83. The county treasurer shall sell all delinquent lands and lots returned from the city at the same time and in the same manner as other delinquent lands are sold in the county.

County treasurer to pay proceeds over to city.

SECTION 84. The county treasurer of Kewaunee county, shall, whenever lots, tracts or parcels of lands have been returned by the city treasurer as delinquent for non-payment of any tax, immediately after the sale of said delinquent lots, pieces or parcels of land by him, pay the city treasurer the amount which may have been returned delinquent belonging to said city.

Use of jail.

SECTION 85. The city of Kewaunee shall use the common jail of Kewaunee county, for the confinement or imprisonment of any person committed or arrested under the authority of said city or the charter or ordinances thereof, and every such offender shall be delivered to the sheriff of said county of Kewaunee, and the sheriff shall be responsible as in other cases.

Cemetery board.

SECTION 86. The mayor and city clerk shall, with the chairman of the town of West Kewaunee, constitute a board to have charge and executive management of the public cemetery of the city, and said town and such board may make all needful rules and regulations concerning said cemetery, and enforce the same, and any two of them may convey by deed burial lots in said cemetery.

Dock and wharf lines.

SECTION 87. The common council of said city shall have power by ordinance to establish dock and wharf lines in said city, to prevent encroachments upon the river therein, and obstructions thereto, and may appoint a harbor master upon

whom may be conferred the duties of bridge tender, and prescribe his duties and compensation.

Special liabilities for taxes.

SECTION 88. Real estate exempted from taxation by the laws of this state shall, nevertheless, be subject to special taxes or assessments, chargeable against particular property, as provided by this act.

Final settlement of accounts.

SECTION 89. The common council shall meet during the month of March of each year, and before the third Tuesday of said month, and determine, by resolution, what compensation or salary shall be paid to each of the officers of the said city for the ensuing year, and such compensation shall not be increased or diminished during the term of office of said officers, but in case the council fail to determine the compensation or salary as aforesaid, said officers shall receive the same compensation or salary as their immediate predecessors, provided, no person shall be eligible to the office of city treasurer for more than two years in succession.

General laws of state to govern.

SECTION 90. The general laws of this state in relation to the building and maintaining of bridges in towns and the issuing of bonds for such purpose and raising of tax for such purpose, shall prevail and be in force in said city, and said city shall, for such purpose, be considered by the county board of supervisors of Kewaunee county as a town, subject to the same liabilities and entitled to the same rights; but wherever such general statutes provide, in relation to bridges, that any acts shall be done by the town supervisors, the same act shall be performed and the same rights and duties shall devolve upon the common council of said city.

SECTION 91. This act shall take effect and be in force from and after its passage and publication.

Approved March 31, 1883.

[No. 138, A.] [Published April 16, 1883.]

CHAPTER 269.

AN ACT to amend the charter of the city of Stevens Point.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amended.

SECTION 1. Subdivision 1st, of section 3, of subchapter 5, of said act is hereby amended by add-

ing the following proviso at the end of said subdivision: Provided, that the mayor may suspend the operation of any license issued under the provisions of this subdivision until the next regular meeting of the common council thereafter, and he shall report to the council at said meeting any suspension made as aforesaid by him and the cause thereof, and the council shall forthwith act upon such report, and may, for good cause shown, revoke such license and direct the cancellation of the same.

Amended.

SECTION 2. Section 2, of subchapter 3, of said act is hereby amended by striking out the words "a marshal" wherever they occur in said section.

Amended.

SECTION 3. Section 7, of subchapter 4, of said act is amended so as to read as follows: Section 7. There shall be appointed by the mayor, subject to the approval of the council, at its first regular meeting in each year, a chief of police who shall attend all meetings of the common council, and shall perform such other duties as shall be prescribed by the common council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers of constables of towns and be subject to the same liabilities. It shall be his duty to execute and return all writs and process to him directed, and when necessary in criminal cases, or for violation of any ordinances of said city, or laws of this state, may pursue and serve the same in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city; to apprehend any person in the act of committing any offense against any ordinance of said city, or laws of this state, and within reasonable time bring such person before competent authority for examination. And for such services he shall receive such fees as are allowed to constables for like services.

Other duties may be required of officers.

SECTION 4. Section 8, of subchapter 4, of said act, is hereby amended so as to read as follows: Section 8. The common council shall have the power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and shall designate the place where the city clerk and the justice appointed to try all actions and cases arising under

the charter and the ordinances of the city shall hold their offices, which place shall be in some building owned by the city, and such officers shall hold their offices at the places so designated, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and fix the compensation of all officers elected or appointed by them; such compensation shall be fixed by resolution at the time the office is created, or at the commencement of the year, and shall not be increased or diminished during the term such officer shall remain in office, or for which he is elected or appointed.

Sidewalks.

SECTION 5. Section 4, of subchapter 11, of said act, is hereby amended so as to read as follows: Section 4. Sidewalks shall be constructed or repaired upon the proper established grade of any street in said city, of such width, in such manner and of such materials and in such time as the common council, by ordinance, shall direct, by the owner or owners of any lot or parcel of land, or subdivision thereof, in front of which such sidewalks shall be ordered. After the adoption of such ordinance the common council shall, by resolution or order, direct the street committee to make an estimate of the cost of construction, repairing or reconstruction of such sidewalk and of the particular amount thereof chargeable to such lot, parcel of land or subdivision thereof, and file such estimate with the city clerk, and after such statement is so filed the common council shall, by ordinance or resolution, fix the time within which such work shall be done. If the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time so directed, the common council may cause the same to be constructed forthwith, at the expense of such owner or owners, under the immediate supervision of the street committee, and as soon as the same is completed, in compliance with the ordinances, the street committee shall forthwith make a detailed report to the common council of all its doings, which shall be spread at length upon the record of the city, and at the same time it shall make out and file with the city clerk a statement of the amount to be charged therefor against such lot, parcel of land, or subdi-

vision thereof, which amount and interest, if not sooner paid, shall be placed in the next tax roll, by the clerk, in a separate column, to be called special sidewalk tax, and the same shall be collected in the same manner as other taxes are collected, and the amount shall draw ten per cent. interest from the date that such statement is so filed with the clerk until the completion of the said tax roll, unless sooner paid; provided, however, that in no case shall the amount, less the interest, exceed the amount in the estimate.

Further regarding sidewalks.

SECTION 6. Section 5, of subchapter 11, of said act, is hereby amended so as to read as follows: Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which, in the opinion of the street committee will not cost to exceed fifteen dollars ($15), in front of any lot or part thereof, to repair the same, it shall be authorized to, and it is hereby made its duty, to repair the same; and when completed, it shall make out an itemized bill of the cost thereof, describing the land in front of which the work is done, and verified by the oath of the chairman of said street committee, and present the same to the common council; all of which shall be spread upon the records of the city, and the amount thereof and interest, if not sooner paid, shall be placed in the next tax roll, by the clerk, in a separate column, to be called special sidewalk tax, and the same shall be collected in the same manner as other taxes are collected, and the amount shall draw ten per cent. interest from the date that such statement is presented to the council until the completion of the said tax roll, unless sooner paid.

Amended.

SECTION 7. Wherever the word "marshal" or "city marshal" occurs in said chapter 260 of the laws of 1877, or the acts amendatory thereof, the same is hereby amended by substituting therefor the words "chief of police."

Poll tax.

SECTION 8. Section 16, of chapter 13, of said act as amended by section 4, of chapter 191, of the laws of 1881, is hereby amended so as to read as follows: Every male inhabitant of the city of Stevens Point, over twenty-one years of age and under fifty, except active members of the fire department and those otherwise exempt by the general laws of this state, shall pay into the city treasury annually, the sum of one dollar and fifty cents

($1.50), as a poll tax. It shall be the duty of the city assessor of the city of Stevens Point, during the month of April, in each year, to make out duplicate lists of all persons liable to said tax in the city of Stevens Point, and said assessor shall, on the last Monday of April, of each year, deliver one of said lists to the city clerk and one to the treasurer of said city of Stevens Point, and both of said lists shall be signed by the mayor and countersigned by the city clerk. The city clerk shall annex to each of said lists a warrant signed by the mayor and city clerk, which shall be in substance in the following form:

Form. To A. B., treasurer of the city of Stevens Point: You are hereby required to collect from the several persons named in the annexed tax list the taxes set opposite to the name of such persons within the time limited by law, and in case any person upon whom such tax is imposed shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of goods and chattels of the person so taxed, and to apply the taxes by you so collected, and make due return thereof as required by law.

Dated ——— day of ———, 18—.

———— ———, City Clerk.

——— ———, Mayor.

The said treasurer shall thereupon immediately proceed to collect the same. The moneys collected as herein provided for shall be kept as a distinct fund, and shall be expended for the benefit and improvement of the streets of the city of Stevens Point. The mayor, city clerk and treasurer shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid; provided, if any person desires, he shall be permitted to perform one day's work upon the streets of the city in the ward in which he resides, and the certificate of the street committee that such person has performed one full day's labor, shall be received by the city treasurer in full discharge of such tax.

Amended. SECTION 9. Section 17, of sub-chapter 13, of said act is hereby amended by striking out the proviso at the latter part of said section, so that said section shall read as follows: Section 17. In all cases

where an action might be brought by the city of Stevens Point against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any of the electors of said city.

SECTION 10. All acts and parts of acts conflicting with the provisions of this act, are hereby repealed.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved April 2, 1883.

[No. 281, A.] [Published April 4, 1883.]

CHAPTER 280.

AN ACT to incorporate the city of Marshfield.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

CHAPTER I.

CITY AND WARD BOUNDARIES.

Boundaries and corporate name.

SECTION 1. All that district of country in the county of Wood, hereinafter described, shall be a city by the name of the city of Marshfield, and the people now inhabiting and those who shall hereafter inhabit said district shall be a municipal corporation by the name of the city of Marshfield, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall have and possess the powers hereinafter specifically granted; and the authorities thereof shall have perpetual succession, and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal, and may change and alter the same at pleasure.

City boundaries.

SECTION 2. The northwest quarter of the township numbered twenty-five (25) north, of range numbered three (3) east, of the fourth principal meridian, shall be included in and constitute the limits of the city of Marshfield.

Ward boundaries.

SECTION 3. The said city shall be divided into three wards, and the number and boundaries shall be as follows: The first ward shall embrace all of the said territory north of the line of the

Wisconsin Central railroad and west of Center avenue and its continuation. The second ward shall embrace all of the said territory south of the aforesaid railroad and west of Center avenue and its continuation. The third ward shall embrace all of the territory east of Center avenue and its continuation.

ELECTIONS.

Annual elections, when held. Elective and appointive officers.

SECTION 4. The annual election for ward and city officers shall be held on the first Tuesday in April in each year, at such place in each ward as the common council shall designate; and the polls shall be kept open from nine o'clock in the forenoon till sundown, and ten days' previous notice shall be given by the common council of the time and place of holding such elections, and of the city and ward officers to be elected. The elective officers of said city shall be a mayor, a clerk, a treasurer, a police justice for the city at large, three aldermen, one justice of the peace and one constable for each ward, and one assessor for each ward. The mayor, treasurer and police justice shall be qualified voters and freeholders in the said city, and the ward officers shall be qualified voters and freeholders in the ward for which they were elected. All other officers necessary for the proper management of the affairs of said city shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, the common council shall have power, for due cause, to expel any of its own number, and to remove from office any officer or agent under the city government, due notice being first given to the officer complained of. The justices of the peace shall hold their offices for two years, and until their successors are elected and qualified. The mayor shall have power to suspend any police officer or watchman appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created, for the time being.

Terms of justices of peace.

Vacancies.

SECTION 5. Whenever a vacancy shall occur in the office of mayor, treasurer, police justice or alderman, such vacancy shall be filled by a new election, which shall be ordered by the common

council within ten days after such vacancy shall occur. Any vacancy happening in any other office shall be filled by the common council. The person elected or appointed to fill any vacancy shall hold his office and discharge the duties thereof for the unexpired term and with the same rights and be subject to the same liabilities as the person whose office he may be elected or appointed to fill.

Elections to be by ballot.

SECTION 6. All elections by the people shall be by ballot, and a plurality of votes cast shall constitute an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, the election shall be determined by the casting of lots in the presence of the common council, at such time and in such manner as it shall direct.

Qualified electors.

SECTION 7. All persons entitled to vote for county or state officers shall be entitled to vote for any officer entitled to be elected under this law, and hold any office hereby created.

Election to be conducted by aldermen.

SECTION 8. The election in said city shall be held and conducted by the aldermen of each ward, who shall be the inspectors of elections in their respective wards, and shall take the usual oaths or affirmations as prescribed by the general laws of this state, to be taken by the judges and inspectors of elections, and shall have power to appoint clerks of such elections, and to administer the necessary oaths, and in case of the absence of any or all of the aldermen of the ward, at the time for opening the polls, the voters present shall select some person or persons to act in their places as inspectors of elections. Said elections shall be held and conducted in the same manner and under the same penalties, and vacancies in the board of inspectors thereof filled, as required by the laws of this state regarding elections.

Challenging votes.

SECTION 9. If either of the inspectors shall suspect that any person offering a vote does not possess the qualifications of an elector, or if such vote be challenged by an elector, the inspectors, before receiving the vote of any such person, shall require him to take the following oath: "You do solemnly swear (or affirm, as the case may be) that you are twenty-one (21) years of age, and that you are a citizen of the United States (or have declared your intentions to become a citizen, conformably with the laws of the United

States on the subject of naturalization); that you have resided within the state of Wisconsin one year, preceding this election, and that you have not voted at this election, and that you have made no bet or wager, or become directly or indirectly interested in any bet or wager depending on the result of this election." And if the person offering the vote shall take such oath falsely, he shall be deemed guilty of wilful and corrupt perjury, and upon conviction thereof upon indictment, shall suffer the punishment provided by law for persons guilty of perjury. If any person who is not a qualified voter, shall vote at any election, or if any person duly qualified shall vote in any other ward than the one in which he resides, or shall vote more than once at any one election, he shall forfeit and pay a sum not exceeding two hundred dollars ($200), nor less than twenty-five dollars ($25). It shall be the duty of the inspectors to keep a list of the names of all persons whose votes may be challenged as aforesaid, and who shall swear in their votes. And if any inspector shall knowingly and corruptly receive the vote of any person not authorized to vote, or shall make out false returns of an election, or if any clerk shall not write down the name of every voter as he votes, or shall wilfully make untrue and incorrect counts and tallies of votes, each and every inspector and clerk shall be liable to indictment, and on conviction thereof shall severally forfeit and pay a sum not exceeding five hundred dollars ($500), nor less than one hundred dollars ($100).

Penalty for illegal voting.

Canvassing votes.

SECTION 10. When an election shall be closed and the number of votes for each candidate or person voted for shall have been counted and ascertained, the said inspectors shall make a return thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered, such return to the city clerk, within three days after any election. The common council shall, on the fourth day after such election, meet and canvass said returns, and declare the result as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election.

Special election to fill vacancy.

SECTION 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted by the aldermen of each ward, in the same

manner, and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance.

What constitutes a vacation of office.

SECTION 12. Any officer removing from the city, or any ward officer removing from the ward for which he is elected, or any officer who shall neglect or refuse for ten days after notice of his election or appointment, to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office, and the common council shall proceed to fill such vacancy as herein provided.

Election of aldermen.

SECTION 13. There shall be elected at the first election under this act, three aldermen for each ward, who shall hold their offices for one year, and until their successors are elected and qualified. There shall also, at the same time be elected by each ward of said city of Marshfield, one supervisor, who shall hold his office for one year, and until his successor is elected and qualified, and the supervisors so elected shall be entitled to seats as members of the county board of supervisors of Wood county.

First election.

SECTION 14. The first election under this act shall be held in each ward in said city, on the third Tuesday in April, 1883, at such place in each ward as the supervisors of the town of Marshfield, or a majority of them shall designate, and a majority of said supervisors shall designate, and in case a majority of said supervisors shall fail to agree upon or designate such place, then at such place as the chairman of said town shall designate; and notice of the time and place of holding such first election shall be given by posting three written or printed notices thereof in each of said wards, and the freeholders present may appoint three of their number to act as inspectors at said election, and said inspectors shall have all the powers given to inspectors of election by the laws of the state of Wisconsin, and shall certify the result of said election to the person elected as city clerk, and who shall, as soon as qualified, enter upon the duties of his office as city clerk, under the provisions of this charter. Should there be a failure to elect by the people any officer herein required to be elected on the day designated, the common council may order a new election to be

held, ten days' notice of the time and place of holding the election being given.

Oath of office.

SECTION 15. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, shall, before he enters upon the duties of his office, take and subscribe an oath of office and file the same, duly certified by the officers taking the same, together with their official bond, with the clerk of the city; and the treasurer, clerk, marshal, constables, and such other officers as the common council may direct shall severally, before they enter upon the duties of their respective offices, execute to the city of Marshfield a bond with at least two sureties, who shall swear that they are worth, in the aggregate, the penalty specified in said bond, over and above all debts, exemptions and liabilities, and said bonds shall contain such penal sum and such conditions as the common council may deem proper; and they may, from time to time, require new additional bonds, and remove from office any officer refusing or neglecting to give the same.

Mayor.

SECTION 16. The mayor shall, when present, preside over the meetings of the common council, and shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all other executive officers of the city discharge their respective duties. He shall, from time to time, give the common council such information and recommend such measures as he may deem advantageous to the city. The mayor shall be the chief executive officer and head of the police of the city; and in case of a riot or other disturbance or apparent necessity, he may appoint as many special or temporary constables as he may deem necessary. The mayor shall have a vote only in case of a tie. The mayor shall have power to veto any ordinance or resolution passed by the common council, by notifying the common council of his objections thereto, at any time within seven days after the passage of such ordinance or resolution. In case of no session of the common council on any day after the passage of the same, and before the expiration of the said seven days, such notification shall be made by filing with the clerk a copy of his objections; and in case the council shall not, within one week after the receipt of such objections or such filing with the clerk, re-enact such ordinance, or pass

such resolution, by the votes of two-thirds of the aldermen elect, the same shall be null and void. No ordinance or resolution shall take effect until one week after the passage of the same, unless sooner approved in writing by the mayor or acting mayor for the time being.

President of council.

SECTION 17. At the first meeting of the common council in each year, it shall proceed to elect by ballot one of its number president, and in the absence of the mayor, the said president shall preside over the meetings of the common council; and during the absence of the mayor from the city, or his inability for any reason to discharge the duties of his office, the said president shall exercise all the powers and discharge all the duties of the mayor, except the signing of city bonds. In case the mayor and the president shall be absent at any meeting of the common council, it shall proceed to elect a temporary presiding officer, who, for the time being, shall discharge the duties of the mayor. The president, or temporary presiding officer, while presiding over the board, or performing the duties of the mayor, shall be styled acting mayor, and acts performed by them, or any of them, shall have the same force and validity as if performed by the mayor, except the signing of city bonds and orders; and the said common council shall also, at its first meeting in each year, elect a marshal for the city, also a chief engineer and a first assistant engineer of the fire department, and a city attorney, who shall hold their respective offices for the term of one year, and until others are elected and qualified.

Clerk.

SECTION 18. The clerk shall keep the corporate seal, and all the papers and records of the city and keep a record of the proceedings of the common council at whose meetings it shall be his duty to attend; and copies of all papers filed in his office and transcript from the records of the common council, certified by him to have been compared by him with the original, and to be a correct transcript therefrom under the corporate seal shall be evidence in all courts in like manner as if the original were produced. He shall draw and countersign all orders on the treasury, in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof in books provided for that purpose. He shall file in his office all chattel mortgages

presented to him for that purpose, and the renewals thereof, and safely keep the same, receiving therefor the same compensation as clerks of towns, and all chattel mortgages so filed and the renewals thereof, shall be as valid and legal as if the same had been filed in the town clerk's office in any town. The clerk shall have power and authority to administer oaths or affirmations.

Jurisdiction of justices.

SECTION 19. The justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace; and shall qualify in the same manner as provided by the general laws of this state, except that the official bonds or agreements shall be approved by a majority of the common council; and in addition thereto they shall have jurisdiction in all cases arising under this act, and the ordinances, resolutions and by-laws passed by said city council, unless therein otherwise provided, and shall hold their offices in their respective wards for which they were elected. All constables elected by virtue of this act shall have and exercise the same powers and duties, and be subject to the same liabilities as constables of towns.

Treasurer.

SECTION 20. The treasurer of said city shall perform such duties and exercise such powers as may be lawfully required of him by the ordinances of said city or the laws of this state. All moneys raised, received, recovered or collected by means of any tax, license, penalty, fine, forfeiture or otherwise, under the authority of this act, or which may belong to the said city, shall be paid into the said city treasury, and shall not be drawn therefrom except by an order, issued by order of the common council and signed by the mayor and countersigned or attested by the clerk. He shall keep an accurate account of all moneys or other things coming into his hands as treasurer, in a book to be provided for that purpose, which shall remain the property of the city, wherein he shall note the time when, and the person from whom the amount of the several sums was received, which book shall, at all reasonable times, be open to the inspection of any person. He shall, every three months, and as often as the common council require, render to such council a minute account of the receipts and expenditures of his office, and at the expiration of his office he shall hand over to his successor, all moneys, books, papers and

property in his possession belonging to said city. The said treasurer shall also be a collector of taxes, and for his services receive the same compensation, except as herein otherwise provided, and he shall have the same powers and be subject to the same liabilities, and be governed by the same laws as treasurers of towns; provided, that he shall receive no other fees except the compensation hereinafter provided.

Marshal.

SECTION 21. The marshal shall attend all the meetings of the common council, and shall perform such duties as shall be prescribed by the common council for the preservation of the public peace, and collection of license moneys and fines. He shall possess all the powers of constables of towns, and be subject to the same liabilities. It shall be his duty to execute and return all writs and processes to him directed, and when necessary in criminal cases, or for the violation of any ordinance of said city or law of this state, may pursue and serve the same in any part of the state. It shall be his duty to suppress all riots, disturbances and breaches of the peace, and to remove all obstructions in the streets and alleys of said city, and to abate all nuisances in said city; to apprehend any person in the act of committing any offense against any ordinance of said city or laws of this state, and within reasonable time, bring such persons before competent authority for examination; and for such services he shall receive such fees as are allowed to constables for like services. He shall have power to appoint one or more deputies, to be approved by the city council, but for whose official acts he shall be responsible, and of whom he may require bonds for the faithful discharge of their duties.

Further duties may be required of officers.

SECTION 22. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties; and their compensation shall be fixed by the qualified voters of said city at the annual meeting in each year, unless otherwise provided, and shall not be increased or diminished during the term such officer shall remain in office, for which he was elected or appointed.

SECTION 23. The common council, at its first

Official newspapers.

meeting in each year, or as soon thereafter as may be, shall designate one or more newspapers printed in said city in which shall be published all ordinances and other proceedings and matters required by this act, or by the by-laws or ordinances of the common council, to be published in a public newspaper, which printing or publishing shall be let by contract to the lowest bidder.

Certified copies of laws.

SECTION 24. The city printer or printers, immediately after the publication of any notice or ordinance or resolution, or by-law, which by this act is required to be published, shall file with the clerk of the city a copy of such publication with his or their affidavit, or the affidavit of his or their foreman of the length of time the same has been published, and such affidavit shall be conclusive evidence of the publication of such notice, ordinance, by-law or resolution, and the clerk shall file the same in his office.

Penalty for non delivery.

SECTION 25. If any person having been an officer in said city shall not, within ten days after notification and request, deliver to his successor in office, all property, books, papers and effects belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city one hundred dollars ($100), besides all damages caused by his neglect or refusal to deliver; and such successor may recover the possession of such books, papers and effects in the manner prescribed by the laws of this state.

Aldermen shall not be party to any job.

SECTION 26. No alderman shall be a party to, or interested in any job or contract with the city or any of the wards; and any contract in which any alderman may be so interested shall be null and void; and in case any money shall have been paid on any such contract, the common council may sue for and recover the amount so paid from the parties to such contract and the aldermen interested in the same. The mayor or acting mayor, sheriff of Wood county, and each and every alderman, police justice, justices of the peace, marshal, under sheriff and deputy sheriff of Wood county, constable, policemen and watchmen, shall be officers of the peace, and may command the peace, and suppress in a summary manner all rioting and disorderly behavior within the limits of the city; and for such purposes, may command the assistance of all bystanders, and if need be, of all citizens. And if any person, bystander or private

citizen shall refuse to aid in maintaining the peace, when so required, every such person shall forfeit and pay a fine of fifty dollars; and in case when the civil power may be required to suppress riots or disorderly behavior, the superior or senior officer present in the order mentioned in this section, shall direct the proceedings.

City surveyor.

SECTION 27. There may be elected by the common council, a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office in some convenient place within said city, and the common council shall prescribe his duties and fix the fees and compensation for any services performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and shall be carefully preserved in the office of the surveyor, open to the inspection of parties interested, and the same, together with all books and papers appertaining to said office, shall be delivered over by the surveyor, at the expiration of his term of office, to his successor or the common council.

Police justice.

SECTION 28. The police justice shall have and possess all the authority, powers and rights of a justice of the peace in civil proceedings and shall have sole exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases within the city, cognizable before a justice of the peace, in which the city is a party; but warrants returnable before said justice, may be issued in criminal cases, by any other justice in the city, but no fees shall be received therefor by said justice. The said justice shall have executive jurisdiction in all cases cognizable before a justice of the peace, in which the city is a party, and shall have cognizance and exclusive jurisdiction of all suits, prosecutions or proceedings for the recovery of any fine, forfeiture or penalty, under any by-law, ordinance or regulation of the said city of Marshfield or its charter, or for a breach or violation of any such ordinance, by-law and regulation, and in all cases of offenses committed against the same. All prosecutions for assaults, batteries and affrays, not indictable, and for a breach or violation of any such by-law, ordinance or regulation, shall be commenced in the name of the city of Marshfield, and the same proceedings shall be had in all civil and criminal suits before said justice, when not otherwise herein

directed, as are established and required to be had in civil and criminal actions, by the laws of this state before a justice of the peace. In all cases of conviction for assaults, batteries and affrays within the said city, and in all cases of conviction under any ordinance of said city, for any breach of the peace, disorderly conduct, keeping houses of ill-fame, or of frequenting the same, and of keeping or maintaining disorderly or ill-governed houses, and said justice shall have power, in addition to the fine or penalty imposed, to enter judgment for costs of prosecution against the defendant, and to compel such offenders to give security for their good behavior, and to keep the peace for a period not exceeding six months and in a sum not exceeding five hundred dollars ($500). The said justice shall have the same power and authority in case of contempt as a court of record; provided, that nothing herein contained shall be deemed to divest the circuit judges of their authority as conservators of the peace, nor to affect in any manner the jurisdiction or powers of the circuit courts or supreme court of this state. In case of absence, sickness, or other inability of such justice, or for any sufficient reason, the mayor, by warrant, may authorize any justice of the peace within said city to perform the duties of said justice for the city, and it shall thereupon be the duty of the mayor to inform the city attorney and police of such substitution, and to make report thereof to the common council, and it may confirm or set aside such appointment, or appoint some other justice of the peace; and the justice of the peace so appointed shall, for the time being, possess all the authorities, powers and rights of said justice. All fines and penalties imposed by the police justice for offenses committed within the city limits, or for violation of any ordinance, by-law or regulation of said city, shall belong to and be a part of the finance of said city.

Further duties of police justice.

SECTION 29. The police justice shall, as often as the common council may require, report to the common council all the proceedings instituted before him in which the city is interested, and shall, at the same time, account for and pay over to the city treasurer, all fines and penalties collected by him and belonging to said city; and said justice shall be entitled to receive from the county of Wood, such fees in similar cases as are allowed

to other justices in the county for similar services.

City attorney.

SECTION 30. The city attorney shall conduct all the law business of the corporation. He shall, when required, furnish opinions upon subjects connected with the welfare of the corporation, submitted to him by the council or any of its committees. He shall keep a docket of all cases to which the city may be a party, which shall, at all times, be open for the inspection of the mayor or council. It shall be the duty of the attorney to draft all general ordinances, all bonds, contracts, leases, conveyances and other instruments of writing that may be required by the business of the city, and perform such other duties as may be prescribed by the charter or ordinances. He shall receive an annual salary to be fixed by the council, and payable quarterly.

CHAPTER II.

THE COMMON COUNCIL — POWERS AND DUTIES.

Constitution of common council.

SECTION 1. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be: "The mayor and common council of the city of Marshfield do ordain," etc. The common council shall meet at such time and place as it, by resolution, shall direct. A majority of the aldermen shall constitute a quorum.

First annual meeting.

SECTION 2. The common council shall hold its first annual meeting in each year on the first Tuesday of April, and thereafter stated meetings at such times as it shall appoint, and the mayor may call special meetings by notice to each of the members to be served personally, or left at their several places of abode. The common council shall determine the rules of its own proceedings, and be the judge of the election and qualification of its own members, and have the power to compel the attendance of absent members.

Council shall control finances.

SECTION 3. The common council shall have the management and control of the finances, except school moneys, and of all other property in the city; and shall likewise, in addition to the power herein vested in it, have full power and authority to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, resolutions and by-laws for the government and good order of the city, for the suppression

of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce as it shall deem expedient, declaring and imposing penalties, and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes it shall have authority, by ordinance, resolution or by-laws:

Powers of council.

License showmen, etc.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses, of theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances under the ordinances of said city, the laws of the state or at common law; and may grant licenses for and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit or suppress the same; provided, that the license for so dealing in or vending spirituous, vinous or fermented liquors shall not be less than seventy-five dollars ($75) nor more than two hundred dollars ($200), and that all such licenses hereafter granted shall run from the first day of May in each year; provided, however, that when any such license may be applied for after that day, the same may be granted to expire on the said first day of May of each year, on the applicant paying *pro rata* therefor; but no license shall be granted for a longer term or period than one year.

Liquors.

Gambling, etc.

2d. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, fermented or vinous liquors unless duly licensed by the common council, and to license, regulate and suppress hawkers and peddlers.

Riots and noise, etc.

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instru-

ments used for the purpose of gaming. No person shall be incapacitated or excused from testifying touching any offense committed against any of the provisions of this act, or any ordinance of the city of Marshfield, by reason of him or her being implicated in any such offense, but the testimony of such witness shall in no case be used against such witness.

Unwholesome places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses, etc.

5th. To direct the location and management of slaughter houses and markets and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

Encumbering of streets.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood, or any other materials or substances whatever.

Racing and swimming.

7th. To prevent horse racing, immoderate driving or riding in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

8th. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining of the same.

Dogs.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Unwholesome substances.

10th. To prevent any person from bringing, depositing or having within said city, any putrid carcasses or other unwholesome substances and to require the removal of the same by any person who shall have upon his premises, any such substance, putrid or unsound beef, pork, fish, hides, skins or substances of any kind, and in default to authorize the removal thereof by some competent officer at the expense of such person or persons.

Pounds, etc.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the sup-

ply of water to the inhabitants; to erect lamps, and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Boards of health. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use, from taxation.

Bread. 13th. To regulate the size and weight of bread and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding or driving on sidewalks. 14th. To prevent all persons riding and driving any ox, mule, cattle or other animal on the sidewalks in said city, or in any way doing damage to said sidewalks.

Fire arms and fireworks. 15th. To prevent the shooting of fire arms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof.

Drunkards. 16th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners, etc. 17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses or other establishments, and to establish and regulate the police of the city.

Public markets. 18th. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Provisions. 19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.

Hay, lime, etc. 20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same, and to appoint fish inspectors as herein provided, and to appoint a lumber and shingle inspector.

21st. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalk, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant. Snow and dirt.

22d. To regulate, control and prevent the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city. Contagious or infectious diseases.

23d. To regulate the time, place and manner of holding public auctions or vendues. Auctions.

24th. To appoint watchmen and prescribe their duties. Watchmen.

25th. To provide by an ordinance for a standard of weights and measures, and the punishment of the use of false weights and measures. Weights and measures.

26th. To protect trees and monuments in said city. Monuments.

27th. To prescribe and regulate the construction of sewers within the city. Sewers.

28th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes and alleys, and to keep them free from incumbrances and to protect them from injury. Highways.

29th. To alter or change the name of any street in the city. Names of streets.

30th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof. Ordinances.

SECTION 4. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall, within fifteen days after their passage, respectively, be published in the official paper or papers of said city, once before the same shall be in force, and within fifteen days thereafter, they shall be recorded by the city clerk, Laws and ordinances, how passed.

in books to be provided for that purpose; but before any of the said laws, ordinances, regulations, or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication, and such record of such law, ordinance, regulation or by-law, and the proof of such record, certified by the clerk under the seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication of such law, ordinance, regulation or by-law. No appropriation shall be made without a vote of a majority of the members of the common council in its favor.

Powers conferred shall not bar or hinder suits.

SECTION 5. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required thereof, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Gunpowder.

Nuisances.

Common council shall examine and audit accounts.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, and all other officers or agents of the city, at such time as it may deem proper, and also at the end of each year and before the time for which the officers of the said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such

person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Corporate authority, in whom vested.

SECTION 7. The corporate authority of said city shall be vested in one principal officer styled a mayor, in one board of aldermen, consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as may be created under this act.

Funds to be under control of council.

SECTION 8. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of the principal or interest of any outstanding bonds of the city; which shall be collected in money or in orders drawn upon such fund respectively, and all orders shall be payable to the person or to the order of the person in whose favor they may be drawn, or bearer.

Amount of tax to be levied.

SECTION 9. The common council of said city shall annually levy upon the taxable property of said city, to defray the current expenses of said city, a tax sufficient to defray expenses, not exceeding eight hundred dollars ($800) in any one year, unless at the annual or special meeting the qualified voters of said city shall otherwise direct.

Respecting the issue of bonds.

SECTION 10. The common council of said city shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, nor shall the common council issue in any one year orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to build or repair bridges, a special tax may be levied for such purpose, not exceeding

three thousand dollars ($3,000) in any one year, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected; provided, a majority of the qualified voters at any annual or special meeting shall so direct.

Special taxes may be levied.

SECTION 11. Special taxes may also be levied by the city council, at any regular meeting, for the purpose of paying the interest or principal of any outstanding bonds, now due or hereafter to become due, issued by the city of Marshfield, or which may hereafter be issued by said city, by authority of law; provided, however, no greater tax shall, in any one year, be levied than shall be necessary to pay the amount which will be due on such bonds at the time such tax shall be collected by virtue of this act, or shall become due before the time appointed by law for assessing and levying the annual taxes. Said taxes, when so levied, shall be collected at the same time other city taxes are collected.

Accounts shall be verified.

SECTION 12. No account shall be allowed by the common council unless the same is verified by the owner thereof, or some person in his behalf.

Appeal may be taken.

SECTION 13. When the claims of any person against the city shall be disallowed, in whole or in part by the common council, such person may appeal from the decision of such council to the circuit court of the county of Wood, by causing a written notice of such appeal to be served on the clerk of said city within thirty days after the making of such decision, and executing a bond to said city, with sufficient surety to be approved by said clerk, county judge or court commissioner, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant by the court.

Clerk shall give notice of appeal to mayor.

SECTION 14. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by ordinance or resolution of said council he may be required to do, and shall make out a brief return of the proceedings in the case before said council with its decisions thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of Wood; and such appeal shall be entered, tried and determined is the same manner as appeals from justices of the peace, and costs shall thereon be

awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council exclusive of interest upon such allowance, the appellant shall pay the cost of appeal, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

No action shall be maintained unless account is first presented.

SECTION 15. No action shall hereafter be maintained by any person against the city of Marshfield upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim to the common council of said city.

Determination of board to be final.

SECTION 16. The determination of the common council, disallowing in whole or in part, any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, unless an appeal shall be taken from the decision and determination of such common council as hereinbefore provided, or unless such council shall contract and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that the common [council] shall refuse or neglect to act upon any claim duly presented to it, this chapter shall not be so construed as to prevent the institution and maintenance of an action by said claimant against said city.

Laying out public squares.

SECTION 17. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same as follows: Whenever ten or more freeholders residing in any ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in said petition. The common council shall thereupon cause notice of such application to be

given to the occupant or occupants of such land, if any there be, or if any portion of said land shall not be in the actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper or papers four weeks successively, at least once in each week.

What notice shall contain.

SECTION 18. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge, or court commissioner for the county of Wood, for appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.

Appointment of jurors.

SECTION 19. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises to be specified in said precept, and to make returns under their hands to the common council, whether, in their judgment, it is necessary to take such premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as jurors in the premises; which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Marshal to serve precept.

SECTION 20. The city marshal shall serve his precept immediately on the jurors therein named, by reading the same to everyone that can be found; and immediately after such service he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

In case jurors cannot be found.

SECTION 21. If any of the jurors so appointed cannot be found, or shall be disqualified from

acting or shall refuse to act, the judge or court commissioner shall appoint others in their places and a memorandum of such substitution shall be endorsed on the precept.

SECTION 22. The said judge or court commissioner, or any justice of the peace, shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them. Oath.

SECTION 23. The said jurors, at such time as they shall agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing, by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment it is necessary to take the premises in question for public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings confirming said report, and direct the same jurors, within twenty days thereafter, or such future time as shall be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of said property proposed to be taken, and to assess and return within the time limited, such damages to the common council, and after the jurors shall have made their report as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve in ascertaining the amount of compensation as above; and all the jurors, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer that they are freeholders in said city, and not interested in the premises to be taken, Shall view premises.

and that they will faithfully and impartially discharge the trust reposed in them.

Value of building to be first ascertained.

SECTION 24. If there should be any building, in whole or in part, upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and, secondly, the value of such building to him to remove.

Notice to be given.

SECTION 25. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all parties interested shall be given by publication in the official paper or papers of said city three successive weeks. Such notice shall specify the building and the award of the jurors. It shall require the parties interested to appear by a day therein named, or give notice of their election to the common council either to accept the award of the jurors and allow such building to be taken with the land appropriated, or their intention to remove such building. He shall have such time for this purpose as the common council may allow.

Building may be sold.

SECTION 26. If the owner shall refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner, or deposited to his use.

Jurors shall examine premises

SECTION 27. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment, and to determine and appraise to the owner or owners the actual value in money of the real estate so proposed to be taken, and the injury arising to them respectively in consequence thereof, which shall be awarded to such owners respectively as damages. In the estimates of the damages to the land, the jurors shall include the value of the

building or buildings (if the property of the owner of such land), as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings, according to section eight of this chapter.

Provided property belongs to different persons.

SECTION 28. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interest respectively, shall be awarded to them by the jurors.

Award to be signed.

SECTION 29. The award of said jurors shall be signed by them, and returned, together with the testimony taken and the precept to the common council within the time limited in such precept.

Appeal.

SECTION 30. Any person whose property is taken, or against whom any assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages to the circuit court of Wood county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond in the manner prescribed in section 6, of chapter 5, of this act, and such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall also have the right to appeal, by filing with the clerk a notice thereof, within ten days, as aforesaid.

Land taken shall not be appropriated until damages are tendered.

SECTION 31. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or in case the said owner or his agent cannot be found, or is unknown, deposit to his or their credit in some safe place of deposit, and then, and not before such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds open or laid out.

Damages.

SECTION 32. The damages assessed shall be paid or tendered or deposited as herein required, within one year from the confirmation of such assessment and report; and if not so paid, tendered or

deposited, all the proceedings in any such case shall be void.

One year's time given.

SECTION 33. The city may pay, or tender or deposit as herein required, at any time within one year from the confirmation of such assessment, and report the damages assessed in any such case; and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order among its proceedings to take and appropriate such lands for the purposes required.

When covenants to cease.

SECTION 34. When the whole of any tract or lot or other premises, under lease or other contracts, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties, touching the same, or any part thereof, shall, upon the confirmation of such report respectively cease and be absolutely discharged.

When only a part is taken.

SECTION 35. When only a part of a lot or tract of land or other premises, so under lease, or other contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

In case of infant.

SECTION 36. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant or labor under legal disability, the judge of the circuit court of Wood county, or in his absence, the judge of any court of record in said county, may, upon the application of the common council, or such party, or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

Survey and profile.

SECTION 37. Whenever any public grounds, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

CHAPTER III.

ASSESSMENT AND COLLECTION OF TAXES.

Property subject to taxation.

SECTION 1. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessors elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor, and make such rules and regulations in relation to revising, altering or adding to such rolls, as it may, from time to time, deem advisable.

Assessor to give notice.

SECTION 2. When the assessment roll shall be completed, the assessor shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where he will hear any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessor shall make such alterations or reductions as justice or equity shall require; provided, the time of hearing such objections shall not be more than one week from the expiration of such notice.

Assessment roll to be returned.

SECTION 3. Within one week after the time limited for the hearing of such objections, the assessor shall return the said assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same may alter and add to, take from, and otherwise revise and correct the same; provided, however, the board of equalization shall not have the power to increase the amount of said roll, except by the value of such real property as may have been omitted by the assessor.

In case any property is omitted.

SECTION 4. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omit-

ted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosesoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying or conveying of the same, but not affecting the equity or justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relieved in manner as it shall, by ordinance direct; provided, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed, shall be levied and continue a lien upon such lot or tract and shall be collected as other taxes and assessments are collected under this act.

Board of equalization.

SECTION 5. The mayor, city clerk, city treasurer and the assessors shall constitute the city board of equalization, and shall meet at the office of the city clerk on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed as far as the same are applicable, reviewing, correcting and equalizing the assessment rolls of the several wards in the city. The mayor shall be president of the board of equalization and the city clerk, the clerk thereof.

Assessment roll to be filed.

SECTION 6. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk; thereupon the common council shall, by resolution, levy such sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the amount as so voted by the qualified electors of said city at a previous meeting.

SECTION 7. All changes of assessment rolls by the board of equalization shall be duly recorded by the city clerk. Changes shall be recorded.

SECTION 8. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed from the time of the confirmation of such assessment roll, and upon all personal property of any person or body politic assessed for personal taxes, from the delivery of the warrant for the collection thereof until such taxes shall be paid, and no sale or transfer of such real or personal estate shall affect said lien; any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon real or personal property. Taxes and assessments to remain a lien.

SECTION 9. It shall be the duty of the city clerk, immediately upon the reception of the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with all the city and other local taxes, adding thereto two per cent. for the expense of collection in an additional column prepared for that purpose in the assessment roll, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent, when less than one-half, otherwise reckoning said fraction as a cent. Duty of clerk.

SECTION 10. The said city clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer, on or before the second Monday in December in each year. Duplicate copy to be made.

SECTION 11. To each assessment roll so delivered a warrant under the hand of the city clerk and the corporate seal of said city shall be annexed substantially in the following form: Form of warrant.

The state of Wisconsin, to the city treasurer of the city of Marshfield, in the county of Wood:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll, and of the owners of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described;

and in case any person or any corporation, upon whom any such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporations so taxed; and out of the moneys so to be collected, after deducting your fees, you are first to pay the treasurer of said county, on or before the last Monday of January next, the sum of ———, for state taxes, and the further sum of ———, for county taxes, and the balance of said money you are required to retain and pay out according to law; and in case said taxes and assessments shall not be paid the fourth Monday of February next, you are required to return the same to the treasurer of the said county of Wood.

Given under our hands and corporate seal of the city, this ——— day of ———, A. D. 18—.

———, City Clerk.

Prima facie evidence.

SECTION 12. The said assessment roll and warrant thereunto attached shall be *prima facie* evidence in all courts that the lands and persons therein named were subject to taxation.

General laws to apply.

SECTION 13. All the general laws of this state which are now or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes, and all assessments of said city in the same manner as is required by law of the town treasurers to collect taxes, except as herein provided.

Treasurer shall give notice in newspaper.

SECTION 14. Upon the receipt of any tax roll and warrant by the treasurer, he shall give public notice in a newspaper published in said city, that such tax list (describing for what purpose such taxes are levied) has been committed to him for collection, and that he will receive payment for taxes at his office for the term of thirty days next ensuing the date of said notice. If the taxes are not paid within said time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written notices in as many public places in said city.

Fees.

SECTION 15. The treasurer shall be entitled to receive and collect as fees for the collection of taxes, two per cent. upon all taxes collected by or

paid to him; and in case of a distress and sale made by him of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution; the city treasurer shall collect the fees hereinbefore prescribed, and shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer from any source whatever, and such book shall be open at all reasonable times to the inspection of any person; and the city treasurer, shall, when required, make a report to the common council, duly certified on oath, of all fees or other moneys received by him as treasurer, and he shall receive no other or further compensation for his services as treasurer, than as hereinbefore provided, except that the common council may provide.

County tax paid in February.

SECTION. 16. The treasurer shall, on or before the third Monday in February, in each year, pay to the county treasurer the tax assessed upon the lots and tracts of land, and personal property in said city.

Only directory.

SECTION 17. All the directions hereby given for the assessing of lands and the levying and collections of taxes and assessments, shall be deemed only directory, and no error or informality in the proceeding of any of the officers intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Assessment of special tax shall not be set aside.

SECTION 18. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract, or to set aside, or to set up or interpose any objection to the title derived by virtue of any tax deed executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit for his use with the city treasurer, the amount of all state, county and city taxes that remain unpaid upon such lot or tract, together with the interest and charges thereon.

In case treasurer is unable to collect.

SECTION 19. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things according to chapter 18 of the revised statutes of this state,

given to the occupant or occupants of such land if any there be, or if any portion of said land shall not be in the actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper or papers four weeks successively, at least once in each week.

What notice shall contain.

SECTION 18. Such notice shall state that upon day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge, or court commissioner for the county of Wood, for appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.

Appointment of jurors.

SECTION 19. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises to be specified in said precept, and to make returns under their hands to the common council, whether, in their judgment, it is necessary to take such premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as jurors in the premises; which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Marshal to serve precept.

SECTION 20. The city marshal shall serve his precept immediately on the jurors therein named, by reading the same to everyone that can be found; and immediately after such service he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

In case jurors cannot be found.

SECTION 21. If any of the jurors so appointed cannot be found, or shall be disqualified from

acting or shall refuse to act, the judge or court commissioner shall appoint others in their places and a memorandum of such substitution shall be endorsed on the precept.

SECTION 22. The said judge or court commissioner, or any justice of the peace, shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them. Oath.

SECTION 23. The said jurors, at such time as they shall agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing, by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment it is necessary to take the premises in question for public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings confirming said report, and direct the same jurors, within twenty days thereafter, or such future time as shall be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of said property proposed to be taken, and to assess and return within the time limited, such damages to the common council, and after the jurors shall have made their report as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve in ascertaining the amount of compensation as above; and all the jurors, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer that they are freeholders in said city, and not interested in the premises to be taken, Shall view premises.

of vice, for the prevention of crime, and for the benefit of trade, commerce and health thereof, and so enforce as it shall deem expedient, declaring and imposing penalties, and so enforce the same against any person or persons who may violate any of the provisions of such ordinances, rules and by-laws, and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state; and for these purposes it shall have authority, by ordinance, resolution or by-laws:

Powers of council.

License showmen, etc.

1st. To license, regulate, suppress and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses, of theatrical performances, billiard tables, bowling saloons, nine or ten pin alleys, and to provide for the abatement and removal of all nuisances under the ordinances of said city, the laws of the state or at common law; and may grant licenses for and regulate groceries, taverns, victualing houses, and all persons vending or dealing in spirituous, vinous or fermented liquors, and may prohibit or suppress the same; provided, that the license for so dealing in or vending spirituous, vinous or fermented liquors shall not be less than seventy-five dollars ($75) nor more than two hundred dollars ($200), and that all such licenses hereafter granted shall run from the first day of May in each year; provided, however, that when any such license may be applied for after that day, the same may be granted to expire on the said first day of May of each year, on the applicant paying *pro rata* therefor; but no license shall be granted for a longer term or period than one year.

Liquors.

Gambling, etc.

2d. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance, with or without betting, and to restrain, prohibit and suppress any person or persons from vending, giving away or dealing in spirituous, fermented or vinous liquors unless duly licensed by the common council, and to license, regulate and suppress hawkers and peddlers.

Riots and noise, etc.

3d. To prevent any riots, noise, disturbance or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instru-

ments used for the purpose of gaming. No person shall be incapacitated or excused from testifying touching any offense committed against any of the provisions of this act, or any ordinance of the city of Marshfield, by reason of him or her being implicated in any such offense, but the testimony of such witness shall in no case be used against such witness.

Unwholesome places.

4th. To compel the owner or occupant of any grocery, cellar, tallow chandler's shop, soap factory, tannery, stable, barn, privy, sewer, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be necessary for the health, comfort and convenience of the inhabitants of said city.

Slaughter houses, etc.

5th. To direct the location and management of slaughter houses and markets and to establish rates for and license venders of gunpowder, and regulate the storage, keeping and conveying of gunpowder or other combustible materials.

Encumbering of streets.

6th. To prevent the encumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engines, carriages, carts, wagons, sleighs, boxes, lumber, pine, wood, or any other materials or substances whatever.

Racing and swimming.

7th. To prevent horse racing, immoderate driving or riding in the streets, and to regulate the places of bathing and swimming in the waters within the limits of said city.

Restrain cattle.

8th. To restrain the running at large of cattle, horses, swine, sheep, poultry and geese, and to authorize the distraining of the same.

Dogs.

9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner, when at large contrary to the ordinances.

Unwholesome substances.

10th. To prevent any person from bringing, depositing or having within said city, any putrid carcasses or other unwholesome substances and to require the removal of the same by any person who shall have upon his premises, any such substance, putrid or unsound beef, pork, fish, hides, skins or substances of any kind, and in default to authorize the removal thereof by some competent officer at the expense of such person or persons.

Pounds, etc.

11th. To make and establish public pounds, pumps, wells, cisterns and reservoirs, and to provide for the erection of water works for the sup-

ply of water to the inhabitants; to erect lamps, and to regulate, license and suppress omnibus drivers, hackmen, coachmen, cartmen, draymen, and the charges of hackmen, coachmen, omnibus drivers, cabmen, cartmen, draymen and all others who may pursue like occupations in this city, and to provide for lighting the streets, public grounds and public buildings with gas or otherwise.

Boards of health. 12th. To establish and regulate boards of health, provide hospitals and cemetery grounds, regulate the burial of the dead, and the return of bills of mortality, and to exempt burial grounds set apart for public use, from taxation.

Bread. 13th. To regulate the size and weight of bread and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding or driving on sidewalks. 14th. To prevent all persons riding and driving any ox, mule, cattle or other animal on the sidewalks in said city, or in any way doing damage to said sidewalks.

Fire arms and fireworks. 15th. To prevent the shooting of fire arms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizen thereof.

Drunkards. 16th. To restrain drunkenness or obscenity in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Runners, etc. 17th. To restrain and regulate runners and solicitors for boats, vessels, stages, public houses or other establishments, and to establish and regulate the police of the city.

Public markets. 18th. To establish public markets, and make rules and regulations for the government of the same; to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Provisions. 19th. To license and regulate butchers' stalls, shops and stands for the sale of game, poultry, butchers' meat, butter, fish and other provisions.

Hay, lime, etc. 20th. To regulate the place and manner of weighing and selling hay, and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same, and to appoint fish inspectors as herein provided, and to appoint a lumber and shingle inspector.

21st. To compel the owners and occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalk, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant. Snow and dirt.

22d. To regulate, control and prevent the landing of persons from boats or vessels wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city. Contagious or infectious diseases.

23d. To regulate the time, place and manner of holding public auctions or vendues. Auctions.

24th. To appoint watchmen and prescribe their duties. Watchmen.

25th. To provide by an ordinance for a standard of weights and measures, and the punishment of the use of false weights and measures. Weights and measures.

26th. To protect trees and monuments in said city. Monuments.

27th. To prescribe and regulate the construction of sewers within the city. Sewers.

28th. To lay out, make, open, keep in repair, alter or discontinue any highways, streets, lanes and alleys, and to keep them free from incumbrances and to protect them from injury. Highways.

29th. To alter or change the name of any street in the city. Names of streets.

30th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state, for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers vested in the mayor and common council, or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof. Ordinances.

SECTION 4. All laws, ordinances, regulations and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall, within fifteen days after their passage, respectively, be published in the official paper or papers of said city, once before the same shall be in force, and within fifteen days thereafter, they shall be recorded by the city clerk, Laws and ordinances, how passed.

in books to be provided for that purpose; but before any of the said laws, ordinances, regulations, or by-laws shall be recorded, the publication thereof, respectively, within the said time, shall be proved by the affidavit of the foreman or publisher of such newspaper, and said affidavit shall be recorded therewith, and at all times shall be deemed and taken as sufficient evidence of the time and manner of such publication, and such record of such law, ordinance, regulation or by-law, and the proof of such record, certified by the clerk under the seal of the city, or any printed book containing the same, purporting to have been published under the sanction of the mayor and council, shall be *prima facie* evidence of the due passage and publication of such law, ordinance, regulation or by-law. No appropriation shall be made without a vote of a majority of the members of the common council in its favor.

Powers conferred shall not bar or hinder suits.

SECTION 5. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, houses of ill-fame, disorderly taverns, and houses or places where spirituous, vinous or fermented liquors are sold without the license required thereof, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Gunpowder.

Nuisances.

Common council shall examine and audit accounts.

SECTION 6. The common council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, and all other officers or agents of the city, at such time as it may deem proper, and also at the end of each year and before the time for which the officers of the said city are elected or appointed shall have expired. And the common council shall require each and every such officer and agent to exhibit his books, funds and moneys, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the orders of said council in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his account or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such

person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts, or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Corporate authority, in whom vested.

SECTION 7. The corporate authority of said city shall be vested in one principal officer styled a mayor, in one board of aldermen, consisting of three members from each ward, who, with the mayor, shall be denominated the common council, together with such other officers as may be created under this act.

Funds to be under control of council.

SECTION 8. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council; and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of the principal or interest of any outstanding bonds of the city; which shall be collected in money or in orders drawn upon such fund respectively, and all orders shall be payable to the person or to the order of the person in whose favor they may be drawn, or bearer.

Amount of tax to be levied.

SECTION 9. The common council of said city shall annually levy upon the taxable property of said city, to defray the current expenses of said city, a tax sufficient to defray expenses, not exceeding eight hundred dollars ($800) in any one year, unless at the annual or special meeting the qualified voters of said city shall otherwise direct.

Respecting the issue of bonds.

SECTION 10. The common council of said city shall not have power to issue any bonds or other evidences of debt payable at a day subsequent to the date of the issue thereof, except in cases specially authorized by law, nor shall the common council issue in any one year orders upon the city treasury to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to build or repair bridges, a special tax may be levied for such purpose, not exceeding

three thousand dollars ($3,000) in any one year, and the said taxes, when so levied, shall be collected at the same time as other city taxes are collected: provided, a majority of the qualified voters at any annual or special meeting shall so direct.

Special taxes may be levied.

SECTION 11. Special taxes may also be levied by the city council, at any regular meeting, for the purpose of paying the interest or principal of any outstanding bonds, now due or hereafter to become due, issued by the city of Marshfield, or which may hereafter be issued by said city, by authority of law; provided, however, no greater tax shall, in any one year, be levied than shall be necessary to pay the amount which will be due on such bonds at the time such tax shall be collected by virtue of this act, or shall become due before the time appointed by law for assessing and levying the annual taxes. Said taxes, when so levied, shall be collected at the same time other city taxes are collected.

Accounts shall be verified.

SECTION 12. No account shall be allowed by the common council unless the same is verified by the owner thereof, or some person in his behalf.

Appeal may be taken.

SECTION 13. When the claims of any person against the city shall be disallowed, in whole or in part by the common council, such person may appeal from the decision of such council to the circuit court of the county of Wood, by causing a written notice of such appeal to be served on the clerk of said city within thirty days after the making of such decision, and executing a bond to said city, with sufficient surety to be approved by said clerk, county judge or court commissioner, conditioned for the faithful prosecution of such appeal and the payment of all costs that shall be adjudged against the appellant by the court.

Clerk shall give notice of appeal to mayor.

SECTION 14. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the mayor and common council, or shall take such measures as by ordinance or resolution of said council he may be required to do, and shall make out a brief return of the proceedings in the case before said council with its decisions thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of Wood; and such appeal shall be entered, tried and determined is the same manner as appeals from justices of the peace, and costs shall thereon be

awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council exclusive of interest upon such allowance, the appellant shall pay the cost of appeal, which shall be deducted from the amount of the recovery; and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

No action shall be maintained unless account is first presented.

SECTION 15. No action shall hereafter be maintained by any person against the city of Marshfield upon any claim or demand other than a city bond or order, unless such person shall first have presented his claim to the common council of said city.

Determination of board to be final.

SECTION 16. The determination of the common council, disallowing in whole or in part, any claim of any person, shall be final and conclusive, and a perpetual bar to any action in any court founded on such claim, unless an appeal shall be taken from the decision and determination of such common council as hereinbefore provided, or unless such council shall contract and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that the common [council] shall refuse or neglect to act upon any claim duly presented to it, this chapter shall not be so construed as to prevent the institution and maintenance of an action by said claimant against said city.

Laying out public squares.

SECTION 17. The common council shall have power to lay out public squares, grounds, streets and alleys, and to widen the same as follows: Whenever ten or more freeholders residing in any ward, shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners may reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in said petition. The common council shall thereupon cause notice of such application to be

given to the occupant or occupants of such land, if any there be, or if any portion of said land shall not be in the actual occupation of any person, then the common council shall cause such notice, describing, as near as may be, the premises proposed to be taken, to be published in the official paper or papers four weeks successively, at least once in each week.

What notice shall contain.

SECTION 18. Such notice shall state that upon a day therein to be named, not less than ten days from the service of such notice, or the expiration of such publication, as the case may be, application will be made to the county judge, or court commissioner for the county of Wood, for appointment of twelve jurors to view said premises, and to determine whether it will be necessary to take the same for the purposes specified in said petition.

Appointment of jurors.

SECTION 19. Upon the presentation of such application, and upon proof of the publication or service of the notice hereinbefore required, the said judge or court commissioner shall thereupon appoint twelve reputable freeholders, residents of said city, but not residents of the ward in which said premises may be, nor interested in the result of such application. The said judge or court commissioner shall thereupon issue his precept, directed to said jurors, requiring them within ten days to view the premises to be specified in said precept, and to make returns under their hands to the common council, whether, in their judgment, it is necessary to take such premises for the purposes specified in such application, and the said jurors, before entering upon the discharge of their duties, shall take and subscribe an oath faithfully and impartially to discharge their duties as jurors in the premises; which oath may be administered by any person authorized to administer oaths, which shall be filed in the office of the city clerk.

Marshal to serve precept.

SECTION 20. The city marshal shall serve his precept immediately on the jurors therein named, by reading the same to everyone that can be found; and immediately after such service he shall return the said precept to the judge or court commissioner who issued the same, together with his doings thereon.

In case jurors cannot be found.

SECTION 21. If any of the jurors so appointed cannot be found, or shall be disqualified from

acting or shall refuse to act, the judge or court commissioner shall appoint others in their places and a memorandum of such substitution shall be endorsed on the precept.

Oath.

SECTION 22. The said judge or court commissioner, or any justice of the peace, shall thereupon administer an oath to said jurors, that they are freeholders of said city, and not interested in the premises proposed to be taken, and that they will faithfully and impartially discharge the trust reposed in them.

Shall view premises.

SECTION 23. The said jurors, at such time as they shall agree upon, shall proceed in a body to view the premises in question, and shall hear such testimony as shall be offered by any party interested, which testimony shall be reduced to writing, by one of the jurors; and either of the jurors shall be authorized to administer the necessary oaths to the witnesses. After viewing the premises in question, and hearing such testimony as may be offered, the jurors shall make a report of their proceedings, which shall be signed by them respectively, and which shall state whether, in their judgment it is necessary to take the premises in question for public use, which said report, testimony and precept shall be returned to the common council within the time limited in said precept. Should the jurors report that it is necessary to take the premises, the common council shall enter an order among its proceedings confirming said report, and direct the same jurors, within twenty days thereafter, or such future time as shall be necessary, to again view said premises for the purpose of ascertaining and determining the amount of damages to be paid to the owner or owners of said property proposed to be taken, and to assess and return within the time limited, such damages to the common council, and after the jurors shall have made their report as to the taking of any lands or premises under this act, and the same shall have been confirmed, the common council shall have power to appoint new jurors in the place of any who shall neglect or refuse to serve in ascertaining the amount of compensation as above; and all the jurors, before entering upon the discharge of their duties in the premises, shall severally take an oath before some competent officer that they are freeholders in said city, and not interested in the premises to be taken,

and that they will faithfully and impartially discharge the trust reposed in them.

Value of building to be first ascertained.

SECTION 24. If there should be any building, in whole or in part, upon the land to be taken, the jurors, before proceeding to make their assessment, shall first estimate and determine the value of such building to the owner, aside from the value of the land, and the injury to him in having such building taken from him; and, secondly, the value of such building to him to remove.

Notice to be given.

SECTION 25. At least ten days' personal notice of such determination shall be given to the owner or his agent, if known, and a resident of the city, or left at his usual place of abode. If not known, or a non-resident, notice to all parties interested shall be given by publication in the official paper or papers of said city three successive weeks. Such notice shall specify the building and the award of the jurors. It shall require the parties interested to appear by a day therein named, and give notice of their election to the common council either to accept the award of the jurors and allow such building to be taken with the land appropriated, or their intention to remove such building. He shall have such time for this purpose as the common council may allow.

Building may be sold.

SECTION 26. If the owner shall refuse to take the building at the value to remove, or fail to give notice of his election as aforesaid within the time prescribed, the common council shall have power to direct the sale of such building at public auction for cash, giving ten days' notice of such sale. The proceeds shall be paid to the owner, or deposited to his use.

Jurors shall examine premises

SECTION 27. The said jurors, within the time limited, shall view and examine the premises proposed to be taken, and all such premises as will, in their judgment, be injured or benefited thereby. After hearing such testimony as may be offered by any party interested, and which shall be reduced to writing by one of said jurors, they shall proceed to make their assessment, and to determine and appraise to the owner or owners the actual value in money of the real estate so proposed to be taken, and the injury arising to them respectively in consequence thereof, which shall be awarded to such owners respectively as damages. In the estimates of the damages to the land, the jurors shall include the value of the

building or buildings (if the property of the owner of such land), as estimated by them as aforesaid, less the proceeds of the sale thereof, or if taken by the owner at the value to remove, in such case they shall only include the difference between such value and the whole estimated value of such building or buildings, according to section eight of this chapter.

Provided property belongs to different persons.

SECTION 28. If the lands or buildings belong to different persons, or if the land be subject to lease, judgment or mortgage, or if there be any estate in it less than an estate in fee, the injury done to such persons or interest respectively, shall be awarded to them by the jurors.

Award to be signed.

SECTION 29. The award of said jurors shall be signed by them, and returned, together with the testimony taken and the precept to the common council within the time limited in such precept.

Appeal.

SECTION 30. Any person whose property is taken, or against whom any assessment is made, may, within ten days from the return of the jurors to the common council, appeal from said assessment of damages to the circuit court of Wood county, by causing a written notice of such appeal to be served on the clerk of said city, and executing a bond in the manner prescribed in section 6, of chapter 5, of this act, and such appeal shall be tried by the court and jury, as in ordinary cases. The common council shall also have the right to appeal, by filing with the clerk a notice thereof, within ten days, as aforesaid.

Land taken shall not be appropriated until damages are tendered.

SECTION 31. The land required to be taken for the purposes mentioned in this act, shall not be appropriated until the damages awarded therefor to the owner thereof shall be paid or tendered to the owner or his agent, or in case the said owner or his agent cannot be found, or is unknown, deposit to his or their credit in some safe place of deposit, and then, and not before such lands may be taken and appropriated for the purposes required, and the same shall thereafter be subject to all the laws and ordinances of the city, in the same manner as streets, alleys and public grounds open or laid out.

Damages.

SECTION 32. The damages assessed shall be paid or tendered or deposited as herein required, within one year from the confirmation of such assessment and report; and if not so paid, tendered or

deposited, all the proceedings in any such case shall be void.

One year's time given.

SECTION 33. The city may pay, or tender or deposit as herein required, at any time within one year from the confirmation of such assessment, and report the damages assessed in any such case, and whenever said damages have been so paid, tendered or deposited, it shall be the duty of the common council to enter an order among its proceedings to take and appropriate such lands for the purposes required.

When covenants to cease.

SECTION 34. When the whole of any tract or lot or other premises, under lease or other contracts, shall be taken by virtue of this act, all the covenants, contracts or engagements between landlord and tenant or any other contracting parties, touching the same, or any part thereof, shall, upon the confirmation of such report respectively cease and be absolutely discharged.

When only a part is taken.

SECTION 35. When only a part of a lot or tract of land or other premises, so under lease, or other contract shall be taken for any of the purposes aforesaid, all the covenants, contracts or agreements respecting the same, upon the confirmation of such report, shall be absolutely discharged as to the part thereof taken, but shall remain valid as to the residue thereof, and the rents, considerations and payments reserved payable and to be paid for or in respect to the same, shall be so proportioned so that the part thereof justly and equitably payable for such residue thereof, and no more, shall be paid or recoverable for or in respect to the same.

In case of infant.

SECTION 36. When any known owner of lands or tenements affected by any proceedings under this act, shall be an infant or labor under legal disability, the judge of the circuit court of Wood county, or in his absence, the judge of any court of record in said county, may, upon the application of the common council, or such party, or his next friend, appoint a guardian for such party, and all notices required by this act shall be served upon such guardian.

Survey and profile.

SECTION 37. Whenever any public grounds, street or alley shall be laid out, widened or enlarged, under the provisions of this chapter, the common council shall cause an accurate survey and profile thereof to be made and filed in the office of the city clerk.

CHAPTER III.

ASSESSMENT AND COLLECTION OF TAXES.

Property subject to taxation.

SECTION 1. All property, real or personal, within the city, except such as may be exempt by the laws of this state, shall be subject to taxation for the support of the city government, and the payment of its debts and liabilities, and the same shall be assessed in the manner hereinafter provided; and the assessors elected under this act shall have and possess the same powers that are or may be conferred upon township assessors, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessor, and make such rules and regulations in relation to revising, altering or adding to such rolls, as it may, from time to time, deem advisable.

Assessor to give notice.

SECTION 2. When the assessment roll shall be completed, the assessor shall give one week's notice thereof in the official paper or papers, and shall fix a time and convenient place where he will hear any objections of parties deeming themselves aggrieved by such assessment, and after hearing the same, the assessor shall make such alterations or reductions as justice or equity shall require; provided, the time of hearing such objections shall not be more than one week from the expiration of such notice.

Assessment roll to be returned.

SECTION 3. Within one week after the time limited for the hearing of such objections, the assessor shall return the said assessment roll to the board of equalization of the city. The board of equalization may supply omissions in said roll, and for the purpose of equalizing the same may alter and add to, take from, and otherwise revise and correct the same; provided, however, the board of equalization shall not have the power to increase the amount of said roll, except by the value of such real property as may have been omitted by the assessor.

In case any property is omitted.

SECTION 4. If it shall appear to the assessor that any lot or parcel of land was omitted in the assessment roll of either or both of the preceding two years, and that the same was then liable to taxation, he shall, in addition to the assessment of that year, assess upon the lot or tract so omit-

ted, for such year or years that it shall have been so omitted, the just value thereof, noting the year when such omission occurred, and such assessment shall have the same force and effect as it would have had if made the year when the same was omitted; and the common council shall direct, in addition to the tax for the current year, such tax to be levied upon such lot or tract as the same would have been chargeable with had not the same been so omitted, and such tax shall be collected as other taxes or assessments for the current year. All lands shall be subject to taxes that may have been omitted, in whosesoever hands they may have come. Should the tax or assessment upon any parcel of land be set aside or declared void by reason of any defect or informality in the assessing, levying or conveying of the same, but not affecting the equity or justice of the tax itself, the common council shall cause the tax or assessment so set aside or declared void, to be relieved in manner as it shall, by ordinance direct; provided, that if the defect was in the assessment, the same shall be again assessed at such time as the common council shall direct, and the said tax or assessment so assessed, shall be levied and continue a lien upon such lot or tract and shall be collected as other taxes and assessments are collected under this act.

Board of equalization.

SECTION 5. The mayor, city clerk, city treasurer and the assessors shall constitute the city board of equalization, and shall meet at the office of the city clerk on the first Monday of July, each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed as far as the same are applicable, reviewing, correcting and equalizing the assessment rolls of the several wards in the city. The mayor shall be president of the board of equalization and the city clerk, the clerk thereof.

Assessment roll to be filed.

SECTION 6. When the assessment roll shall have been revised and corrected, the same shall be filed with the clerk; thereupon the common council shall, by resolution, levy such sums of money as may be sufficient for the several purposes for which taxes are herein authorized to be levied, but not exceeding the amount as so voted by the qualified electors of said city at a previous meeting.

SECTION 7. All changes of assessment rolls by the board of equalization shall be duly recorded by the city clerk. Changes shall be recorded.

SECTION 8. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the lands and tenements upon which they may be assessed from the time of the confirmation of such assessment roll, and upon all personal property of any person or body politic assessed for personal taxes, from the delivery of the warrant for the collection thereof until such taxes shall be paid, and no sale or transfer of such real or personal estate shall affect said lien; any personal property belonging to the person taxed may be taken and sold for the payment of taxes upon real or personal property. Taxes and assessments to remain a lien.

SECTION 9. It shall be the duty of the city clerk, immediately upon the reception of the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, to calculate and carry out the total amount of such taxes, together with all the city and other local taxes, adding thereto two per cent. for the expense of collection in an additional column prepared for that purpose in the assessment roll, setting down opposite the several sums set down as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent, when less than one-half, otherwise reckoning said fraction as a cent. Duty of clerk.

SECTION 10. The said city clerk shall immediately make out a duplicate copy of such assessment roll when thus completed, and deliver the same to the treasurer, on or before the second Monday in December in each year. Duplicate copy to be made.

SECTION 11. To each assessment roll so delivered a warrant under the hand of the city clerk and the corporate seal of said city shall be annexed substantially in the following form: Form of warrant.

The state of Wisconsin, to the city treasurer of the city of Marshfield, in the county of Wood:

You are hereby commanded to collect from each one of the persons and corporations named in the annexed assessment roll, and of the owners of the real estate described therein, the taxes set down in such roll opposite to their respective names, and to the several parcels of land therein described;

and in case any person or any corporation, upon whom any such tax is imposed, shall refuse or neglect to pay the same, you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporations so taxed: and out of the moneys so to be collected, after deducting your fees, you are first to pay the treasurer of said county, on or before the last Monday of January next, the sum of ———, for state taxes, and the further sum of ———, for county taxes, and the balance of said money you are required to retain and pay out according to law; and in case said taxes and assessments shall not be paid the fourth Monday of February next, you are required to return the same to the treasurer of the said county of Wood.

Given under our hands and corporate seal of the city, this ——— day of ———, A. D. 18—.

———, City Clerk.

Prima facie evidence.

SECTION 12. The said assessment roll and warrant thereunto attached shall be *prima facie* evidence in all courts that the lands and persons therein named were subject to taxation.

General laws to apply.

SECTION 13. All the general laws of this state which are now or may hereafter be in force relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided, and the city treasurer shall proceed to collect the taxes, and all assessments of said city in the same manner as is required by law of the town treasurers to collect taxes, except as herein provided.

Treasurer shall give notice in newspaper.

SECTION 14. Upon the receipt of any tax roll and warrant by the treasurer, he shall give public notice in a newspaper published in said city, that such tax list (describing for what purpose such taxes are levied) has been committed to him for collection, and that he will receive payment for taxes at his office for the term of thirty days next ensuing the date of said notice. If the taxes are not paid within said time, he shall then proceed to collect the same by distress and sale of the goods and chattels of the persons charged, giving at least six days' notice of the time and place of such sale, by posting up not less than three written notices in as many public places in said city.

Fees.

SECTION 15. The treasurer shall be entitled to receive and collect as fees for the collection of taxes, two per cent. upon all taxes collected by or

paid to him; and in case of a distress and sale made by him of goods and chattels for the payment of any tax, he shall be entitled to receive such fees as are allowed constables on sales of goods upon execution; the city treasurer shall collect the fees hereinbefore prescribed, and shall keep in a book to be provided for that purpose, a true account and statement of all fees by him received as city treasurer from any source whatever, and such book shall be open at all reasonable times to the inspection of any person; and the city treasurer, shall, when required, make a report to the common council, duly certified on oath, of all fees or other moneys received by him as treasurer, and he shall receive no other or further compensation for his services as treasurer, than as hereinbefore provided, except that the common council may provide.

County tax paid in February.

SECTION. 16. The treasurer shall, on or before the third Monday in February, in each year, pay to the county treasurer the tax assessed upon the lots and tracts of land, and personal property in said city.

Only directory.

SECTION 17. All the directions hereby given for the assessing of lands and the levying and collections of taxes and assessments, shall be deemed only directory, and no error or informality in the proceeding of any of the officers intrusted with the same, not affecting the substantial justice of the tax itself, shall vitiate or in any wise affect the validity of the tax or assessment.

Assessment of special tax shall not be set aside.

SECTION 18. No person shall be permitted to institute any proceedings to set aside any assessment or special tax hereafter levied or assessed upon any lot or tract, or to set aside, or to set up or interpose any objection to the title derived by virtue of any tax deed executed in consequence of the non-payment of such taxes, and of the sale of the premises therefor, unless such person shall first pay or tender to the proper party, or deposit for his use with the city treasurer, the amount of all state, county and city taxes that remain unpaid upon such lot or tract, together with the interest and charges thereon.

In case treasurer is unable to collect.

SECTION 19. In case the city treasurer is unable to collect any tax assessed upon any personal property, and payable by any person named in the tax list, he shall proceed in all things according to chapter 18 of the revised statutes of this state,

and the acts amendatory thereto, in bringing such delinquent person before some justice of the peace, and such proceedings shall be had as are provided by said chapter 18, and as are prescribed by chapter 198, of the general laws of 1860, and any act that may be hereafter passed amendatory to said acts or in addition thereto.

FIRE DEPARTMENT.

Fire department.

SECTION 20. The common council, for the purpose of guarding against the calamities of fire, shall have the power to prescribe the limits within which wooden buildings, or buildings of other materials that shall not be considered fire proof, shall not be erected or repaired, and to direct that all and every building within the limits prescribed shall be made and constructed of fire proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits, where the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damage, and to prescribe the penalties for the violation of any resolution or ordinance passed under this section.

Chimneys, etc.

SECTION 21. The common council shall have the power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stovepipes, ovens, boilers and apparatus used in and about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to require the inhabitants to provide as many fire buckets, and in such manner and time as it shall prescribe and to regulate the use of them in case of fire; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to regulate and prevent the use of fireworks and firearms; to compel the owners and occupants of buildings to have scuttles in the roof, and stairs or ladders leading to the same; to authorize the mayor, aldermen, fire wardens and other officers of the city to keep away from the vicinity of the fire all idle and suspected persons, and compel all bystanders to aid in the extinguishment of fires, and the preservation of [property] exposed to danger thereat, and generally to establish such regulations for the prevention and extinguishment of

fires as the common council may deem expedient, and to provide penalties for the violation of any resolution or ordinance passed under this section.

Purchase of fire engines.

SECTION 22. The common council shall have full power to purchase fire engines and other fire apparatus, and to authorize the formation of fire engine, hook and ladder and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered up. Each company shall not exceed seventy able-bodied men, between the ages of eighteen and fifty years, and may elect its own officers, except chief engineer and assistant engineers, who shall be appointed by the common council, and form their own laws, not inconsistent with the laws of this state, or the ordinances and regulations of said city, and shall be formed only by voluntary enlistments. Every member of said company hereby authorized to be formed, shall be exempt from highway work and poll tax, and from serving on juries and military duty, except in cases of war, insurrection or invasion, during the continuance of such membership; and any person having served for the term of ten years, in either of such companies, shall be forever thereafter exempt from poll tax and military and jury duty, except as in cases before mentioned.

Appointment of fire wardens.

SECTION 23. The mayor shall appoint two fire wardens for each ward, subject to confirmation by the common council, who shall perform such duties as the common council may prescribe, and they may at any time enter into any building, house, store, barn or enclosure for the purpose of inspecting the same.

Disposition of penalties.

SECTION 24. One-half of the net proceeds of all fines and penalties recovered and collected for the breach of any ordinance, by-law or regulation made in pursuance of this chapter, shall be paid to the city treasurer for the fire department.

Arrest of persons for refusing to act at fires.

SECTION 25. When any person shall refuse to obey the lawful order of any engineer, fire warden or alderman of the city, the mayor or city marshal at any fire, it shall be lawful for the officer giving such order to arrest, or direct orally the marshal, constable, or watchman or any citizen, to arrest such person, and to confine him temporarily in any safe place until such fire shall be ex-

tinguished; and in the same manner such officers or any of them may arrest or direct the arrest and confinement of any person at such fire who shall be intoxicated or disorderly; and any such person who shall refuse to arrest or aid in arresting any person, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars.

Sack company and its duties.

SECTION 26. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such name as it may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineers. The members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Marshfield, and are hereby vested with all the power and authority which now is or may hereafter be vested in any other police officer of said city, and shall be entitled to all the rights and [immunities] of members of the fire department, except exemption from jury duty. At fires, it shall take charge of all property which may be exposed or endangered, and shall, as far as may be in its power, preserve the same from injury or destruction. Such company may, from time to time, adopt such laws as it deems necessary, not inconsistent with the laws of this state or the ordinances of said city. The members thereof shall not be entitled to any compensation for any service rendered in their official capacity. They shall, in case of riot or other disturbances of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

Duty of treasurer.

SECTION 27. The treasurer of the fire department shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city in such penal sum as shall be required, and with sureties to be approved by the common council. Such moneys shall only be paid out on orders signed by the chief engineer, or acting chief engineer, and countersigned by the clerk of said department.

SECTION 28. There shall be elected by the mem-

bers of each company aforesaid, annually, at their annual meetings, a clerk or secretary, and a treasurer, who shall, on or before the first Monday of May in each year, return to the city clerk a list containing the name of each member of their respective companies; and when any member of either of said companies shall cease to be a member thereof by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk. Officers of company.

SECTION 29. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries as above provided; and no person shall be exempt from jury duty unless the name is entered on such list. In case any person shall, for any cause, cease to be a member of either of said companies, the clerk shall note the fact on the list thereof, and shall return to the clerk of the board of supervisors of the county of Wood a list of all persons who are members of either or all of said companies exempt from jury duty, on or before the day now appointed, or which may hereafter be appointed for the annual meetings of said board, and said board shall not place the names of such persons on the jury list for the ensuing year. Duty of clerk.

CHAPTER IV.

ACTIONS TO RECOVER PENALTIES, ETC.

SECTION 1. All actions brought to recover any penalties or forfeiture under this act, or the ordinances, by-laws, or police or health regulations, made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the chapter and section of this act, or the section of the ordinance, by-law or regulation, under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. Penalties

SECTION 2. In all prosecutions for any violation of any of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant as in criminal cases before justices of the peace, under the general statutes of the state for the time being. Process by summons.

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF WOOD, } ss.
City of Marshfield. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Marshfield:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, one of the justices of the peace in said city, at my office in said city, on the ——— day of ———, 18—, at ——— o'clock in the ———noon, to answer to the city of Marshfield in a plea of debt, to the damage of said city two hundred dollars ($200) or under.

Given under my hand at the said city, this ——— day of ———, 18—.

C. D., Justice of the Peace.

When made returnable.

SECTION 4. Such summons shall be made returnable, and be served in the same manner as is now or hereafter may be prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; and all proceedings in the action except as hereinafter provided, shall be governed by the laws of this state for the time being, relative to actions commenced by summons and triable before justices of the peace.

Form of complaint.

SECTION 5. When the action is commenced by summons the complaint may be substantially in the following form:

CITY OF MARSHFIELD, }
against } In Justices' Court.
A——— B———. }

Before C——— D———, Justice.

The plaintiff complains against the defendant for that the defendant on the ——— day of ———, 18—, at the said city, did violate (section ——, of chapter ———, of this act, or section ———, of an ordinance or by-law, or regulation of said city, describing it by its title), which said ——— is now in force. By reason of which violation an action hath accrued to the city of Marshfield, to recover of the defendant the sum of ——— dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 6. In all cases where oath is made for a warrant for the complaint, it shall be made on oath of the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

THE CITY OF MARSHFIELD, against A—— B——. } In Justice's Court.

Before C——— D———, Justice.

County of Wood — ss.

——— ———, being duly sworn, complains on oath to C——— D———, one of the justices of the peace in and for the city of Marshfield, in said county, that A——— B———, on the——— day of ———, 18—, at said city, did violate (section ———, of chapter ———, of this act, or section ———, of an ordinance or by-law or regulation of said city, describing it by title), which ——— is now in force, as this complainant verily believes, and prays that said A——— B——— may be arrested and held to answer to said city of Marshfield therefor.

Subscribed and sworn to before me this ——— day of ———, 18—.

What to contain.

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF WOOD, City of Marshfield. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Marshfield, greeting:

Whereas, ——— ——— has this day complained to me in writing, on oath, that A. B., on the ——— day of ———, 18—, at said city, did violate section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law, or regulation of said city (describing it by its title), which said ——— is now in full force as the complainant believes; therefore you are commanded to arrest the body of said A—— B—— and bring him be-

fore me forthwith, to answer to the said city of Marshfield on the complaint aforesaid.

C. D., Justice of the Peace.

How justice shall proceed.

Upon the return of the warrant, the justice of the peace may proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court for his or her or their appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Wood county. The complaint made as aforesaid shall be the only complaint required, and the plea of "not guilty" shall put in issue all subject matter not embraced in the action.

Printed copy to be evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without the prepayment of fees.

SECTION 8. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly [served], and in default thereof, their attendance may be compelled by attachment.

In regard to city prosecutions.

SECTION 9. In city prosecutions no jury shall be allowed either party, and the findings of the court shall be guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall, in either case, determine and enter upon the docket the length of time the defendant shall be imprisoned, which in no case shall exceed six months; and also insert such time in the execu-

tion or commitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF WOOD, City of Marshfield. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Marshfield, on the ——— day of ———, 18—, recovered a judgment before the undersigned, one of the justices of the peace in and for said city, against ——— ———, for the sum of ——— dollars ($—) and ——— ——— cents, costs of suit, for the violation of (section ——— of chapter ——— of this act, or section ——— of an ordinance or by-law or regulation of said city, describing it by its title), you are hereby commanded to levy distress of the goods and chattels of said ———, excepting such as the law exempts, and make sale thereof according to law, to the amount of said sum, together with your fees and twenty-five (25) cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said ——— ———, and him convey and deliver to the keeper of the common jail in Wood county, and the said keeper is hereby commanded to receive and keep in custody in said jail the said ——— ———, for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this ——— day of———, 18—. C. D., Justice of the Peace.

Form of commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writs.

Defendant may appeal from judgment.

SECTION 10. In all cases where the fine is more than fifty dollars ($50), the defendant may appeal from such judgment to the circuit court of the county of Wood; provided, such defendant within twenty-four hours enter into recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court, and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make special return of the proceedings had before him, and shall forthwith

cause the summons or warrant and return, together with the proceedings, and copies of the entries on his docket in the action, together with the recognizances, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment as in other cases before justices of the peace.

Appeal to be tried by jury.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived in a manner provided by law, in said circuit court, at the next term thereof after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

If judgment of justice is affirmed.

SECTION 12. If the judgment of the justice shall be affirmed, or if, upon trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Shall not work incompetency.

SECTION 13. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

All ordinances to remain in force.

SECTION 14. All ordinances, and regulations now in force in the city of Marshfield, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council after this act shall take effect.

Corporation shall prosecute.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits, or otherwise, which have arisen or accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

In case of suits against city, service of summons.

SECTION 16. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk so served, forthwith to inform the common council thereof, or to take such demand or proceedings, as by ordinance or resolution of said council may be in such case provided.

Penalties.

SECTION 17. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury, for the use

and benefit of said city, except as provided in chapter 9, of this act.

Property exempt from attachment.

SECTION 18. All fire engines, hose-carts, hooks and ladders, and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose-carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action, or on any judgment wherein the said city shall be a party.

Property shall not be sold on attachment.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, on any judgment against said city.

Imprisonment in county jail.

SECTION 20. In all cases where a defendant shall be convicted of any violation of any ordinance or police regulations of said city, the court before whom the same is tried shall have power to sentence the defendant to a term of imprisonment in the common jail of Wood county, for any period not exceeding six months.

Pardon power.

SECTION 21. The mayor shall have power to grant pardons or commutations after convictions, against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting, with the reasons therefor.

CHAPTER V.

IMPROVEMENT OF THE STREETS AND SIDEWALKS.

Regarding streets and sidewalks.

SECTION 1. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving of any street at the expense, in whole or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law shall not be passed or adopted sooner than fourteen days after the introduction thereof, nor until ten days after the proceedings of the council had relative thereto, at the meeting when such ordinance, resolution or by-law was introduced, shall have been published in the official newspaper of said city.

Establishing grades.

SECTION 2. The common council of the city of Marshfield shall have power to establish the grade of the streets of said city, and change and re-establish such grade as it shall deem expedient: provided, that whenever it shall change or alter the grade of any street, any person who shall claim to have sustained damages by such change or alteration of grade, shall have his right of action against the city for the recovery of such damages; but no suit shall be commenced therefor, until application has been made to the common council to pay such damages, and said council shall have refused or neglected for three months to pay or settle the same.

Enforcement of ordinances.

SECTION 3. It shall be the duty of the city marshal to see that all the ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water courses in said city are duly observed and kept. The committee on streets shall have a general supervision over all works let by contract for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide.

Construction and repair of sidewalks.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials, and in such time as the common council, by ordinance, resolution or order, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered; if the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time as so directed, the common council may cause the same to be constructed forthwith, at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable responsible bidder, and notice shall be given by publication in the official paper of the city, at least for three days, of the time, place and manner of receiving such bids.

Improvements made by two-thirds vote.

SECTION 5. The common council shall have power, by a vote of two-thirds of all the members of the common council, to order the building, construction, reconstruction or repair of sidewalks in the city of Marshfield in such manner as it may deem proper. The city clerk shall receive all pro-

posals for constructing or repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder; provided, such bid is a reasonable one, subject to such provisions in the case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks and levying and collecting special taxes on respective lots to pay for the same, shall be the same as herein provided as in case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalks shall receive any pay therefor from the city under any circumstances, until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which, in the opinion of the street committee, will not cost to exceed the amount of five dollars ($5), in front of any one lot to repair the same, it shall be authorized and it is hereby made his duty to cause the same to be immediately repaired; and when the same is completed he shall make out an itemized bill of the costs of such repair, specifying the lot and block or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Marshfield, for payment, and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in the city of Marshfield, the said committee shall return said account to the common council with his certificate, stating that fact, and the council shall thereupon levy a special tax to pay the same in the manner in this section provided.

Work to be let to lowest bidder.

SECTION 6. The common council of said city shall have power, and may in its discretion, by a vote of two-thirds of its members, advertise and

let to the lowest responsible bidder, whose ... shall deem reasonable and proper, the con... tion of any sidewalk or gutter, or the maki... improvement on or along any street or high... in said city limits which shall have been ord...

Further regarding repair of streets.

SECTION 7. The common council of the city Marshfield shall have the power by an affirma... vote of two-thirds of all its members, to order ... contract for the making, grading, paving and re... pairing, and cleansing of streets and part... streets, alleys, public or private grounds, re... voirs, gutters and sewers, in the manner he... mentioned, and direct and control the persons e... ployed thereon.

Surveying expenses to be paid by city.

SECTION 8. The cost and expenses of survey... ing lands, streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvements, shall be chargeable to and payable by the city. Sewers and gutters may be ordered by the common council and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which such sewer or gutter shall be constructed; provided, however, that when sewers or gutters are constructed through alleys, no lot shall be assessed therefor, except those situated in the block through which such sewers or gutters may be constructed; and, provided, further, that in all cases when improvements or work of any kind are chargeable, by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds, shall be made and paid for by the city, in proportion to the width of the street, alley or public ground.

Whole expense of improvement to be authorized.

SECTION 9. Whenever the common council shall determine to make any public improvement as authorized by this chapter, it shall cause to be made an estimate of the whole expense thereof, and such estimate shall be filed in the office of the city clerk, for the inspection of the parties interested before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such

time and under such conditions, and to give such security for the performance of such work as it shall direct; such contract when approved by the council, to be executed on the part of the city by the mayor and countersigned by the city clerk; notice of the time and place of receiving such bids to be published for ten days in the official paper of said city. The common council, instead of letting such work by contract to the lowest bidder, may, by an affirmative vote of two-thirds of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvement, to be done directly by and under the supervision of a street committee, at the uniform expense, in whole or in part of the lots or parcels of land abutting or fronting on such street or public improvement.

In case of deep cutting.

SECTION 10. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots and lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the council in writing that the expenses of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders, not residents of the ward nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the streets so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof in writing as soon as practicable, but within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided; in case such owners shall not do such work, the remainder shall be assessed upon the lots benefited

SECTION 3. When the action is commenced by summons, such summons may be substantially in the following form:

Form of summons.

COUNTY OF WOOD, } ss.
City of Marshfield. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Marshfield:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, one of the justices of the peace in said city, at my office in said city, on the ——— day of ———, 18—, at ——— o'clock in the ———noon, to answer to the city of Marshfield in a plea of debt, to the damage of said city two hundred dollars ($200) or under.

Given under my hand at the said city, this ——— day of ———, 18—.

C. D., Justice of the Peace.

When made returnable.

SECTION 4. Such summons shall be made returnable, and be served in the same manner as is now or hereafter may be prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; and all proceedings in the action except as hereinafter provided, shall be governed by the laws of this state for the time being, relative to actions commenced by summons and triable before justices of the peace.

Form of complaint.

SECTION 5. When the action is commenced by summons the complaint may be substantially in the following form:

CITY OF MARSHFIELD, }
against } In Justices' Court.
A——— B———. }
Before C——— D———, Justice.,

The plaintiff complains against the defendant for that the defendant on the ——— day of ———, 18—, at the said city, did violate (section ——, of chapter ———, of this act, or section ———, of an ordinance or by-law, or regulation of said city, describing it by its title), which said ——— is now in force. By reason of which violation an action hath accrued to the city of Marshfield, to recover of the defendant the sum of ——— dollars debt. Wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

SECTION 6. In all cases where oath is made for a warrant for the complaint, it shall be made on oath of the complainant, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

THE CITY OF MARSHFIELD, against A—— B——. } In Justice's Court.

Before C——— D———, Justice.

County of Wood—ss.

———— ————, being duly sworn, complains on oath to C——— D———, one of the justices of the peace in and for the city of Marshfield, in said county, that A——— B———, on the——— day of ———, 18—, at said city, did violate (section ———, of chapter ———, of this act, or section ———, of an ordinance or by-law or regulation of said city, describing it by title), which ——— is now in force, as this complainant verily believes, and prays that said A——— B——— may be arrested and held to answer to said city of Marshfield therefor.

Subscribed and sworn to before me this ——— day of ———, 18—.

What to contain.

It shall be sufficient to give the number of the section and chapter of this act, or the section of the ordinance, by-law or regulation violated in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF WOOD, City of Marshfield. } ss.

The state of Wisconsin, to the sheriff or any constable of said county, and to the marshal of the city of Marshfield, greeting:

Whereas, ——— ———has this day complained to me in writing, on oath, that A. B., on the ——— day of ———, 18—, at said city, did violate section ——— of chapter ——— of this act, or section ——— of an ordinance, or by-law, or regulation of said city (describing it by its title), which said ——— is now in full force as the complainant believes; therefore you are commanded to arrest the body of said A—— B—— and bring him be-

fore me forthwith, to answer to the said city of Marshfield on the complaint aforesaid.

C. D., Justice of the Peace.

How justice shall proceed.

Upon the return of the warrant, the justice of the peace may proceed summarily with the case, unless it be adjourned by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court for his or her or their appearance, in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Wood county. The complaint made as aforesaid shall be the only complaint required, and the plea of "not guilty" shall put in issue all subject matter not embraced in the action.

Printed copy to be evidence.

SECTION 7. A printed copy of an ordinance, by-law or regulation passed by the common council, and published in a newspaper, or in pamphlet or book form, purporting to be published by authority of the common council shall be *prima facie* evidence of its due passage and publication, and shall be received in evidence on trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without the prepayment of fees.

SECTION 8. Witnesses and jurors shall attend before a justice of the peace in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly [served], and in default thereof, their attendance may be compelled by attachment.

In regard to city prosecutions.

SECTION 9. In city prosecutions no jury shall be allowed either party, and the findings of the court shall be guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation, for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be taxed against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution, as in cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall, in either case, determine and enter upon the docket the length of time the defendant shall be imprisoned, which in no case shall exceed six months; and also insert such time in the execu-

tion or commitment. Such execution shall be in the following form:

Form of execution.

COUNTY OF WOOD, } ss.
City of Marshfield. }

The state of Wisconsin, to the sheriff or any constable of said county, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Marshfield, on the ——— day of ———, 18—, recovered a judgment before the undersigned, one of the justices of the peace in and for said city, against ——— ———, for the sum of ——— dollars ($—) and ——— ——— cents, costs of suit, for the violation of (section ——— of chapter ——— of this act, or section ——— of an ordinance or by-law or regulation of said city, describing it by its title), you are hereby commanded to levy distress of the goods and chattels of said ———, excepting such as the law exempts, and make sale thereof according to law, to the amount of said sum, together with your fees and twenty-five (25) cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said ——— ———, and him convey and deliver to the keeper of the common jail in Wood county, and the said keeper is hereby commanded to receive and keep in custody in said jail the said ——— ———, for the term of ———, unless the said judgment, together with all the costs and fees, are sooner paid, or he be discharged by due course of law.

Given under my hand, this ——— day of———, 18—. C. D., Justice of the Peace.

Form of commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writs.

Defendant may appeal from judgment.

SECTION 10. In all cases where the fine is more than fifty dollars ($50), the defendant may appeal from such judgment to the circuit court of the county of Wood; provided, such defendant within twenty-four hours enter into recognizance with one or more sufficient sureties, to be approved by such justice, conditioned to appear before said court, and abide the judgment of the court therein. The justice from whose judgment an appeal shall be taken, shall make special return of the proceedings had before him, and shall forthwith

cause the summons or warrant and return, together with the proceedings, and copies of the entries on his docket in the action, together with the recognizances, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment as in other cases before justices of the peace.

Appeal to be tried by jury.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived in a manner provided by law, in said circuit court, at the next term thereof after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

If judgment of justice is affirmed.

SECTION 12. If the judgment of the justice shall be affirmed, or if, upon trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Shall not work incompetency.

SECTION 13. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

All ordinances to remain in force.

SECTION 14. All ordinances, and regulations now in force in the city of Marshfield, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council after this act shall take effect.

Corporation shall prosecute.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits, or otherwise, which have arisen or accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

In case of suits against city, service of summons.

SECTION 16. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk so served, forthwith to inform the common council thereof, or to take such demand or proceedings, as by ordinance or resolution of said council may be in such case provided.

Penalties.

SECTION 17. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury, for the use

and benefit of said city, except as provided in chapter 9, of this act.

SECTION 18. All fire engines, hose-carts, hooks and ladders, and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose-carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action, or on any judgment wherein the said city shall be a party. Property exempt from attachment.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, on any judgment against said city. Property shall not be sold on attachment.

SECTION 20. In all cases where a defendant shall be convicted of any violation of any ordinance or police regulations of said city, the court before whom the same is tried shall have power to sentence the defendant to a term of imprisonment in the common jail of Wood county, for any period not exceeding six months. Imprisonment in county jail.

SECTION 21. The mayor shall have power to grant pardons or commutations after convictions, against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting, with the reasons therefor. Pardon power.

CHAPTER V.

IMPROVEMENT OF THE STREETS AND SIDEWALKS.

SECTION 1. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving of any street at the expense, in whole or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law shall not be passed or adopted sooner than fourteen days after the introduction thereof, nor until ten days after the proceedings of the council had relative thereto, at the meeting when such ordinance, resolution or by-law was introduced, shall have been published in the official newspaper of said city. Regarding streets and sidewalks.

Establishing grades.

SECTION 2. The common council of the city of Marshfield shall have power to establish the grade of the streets of said city, and change and re-establish such grade as it shall deem expedient: provided, that whenever it shall change or alter the grade of any street, any person who shall claim to have sustained damages by such change or alteration of grade, shall have his right of action against the city for the recovery of such damages; but no suit shall be commenced therefor, until application has been made to the common council to pay such damages, and said council shall have refused or neglected for three months to pay or settle the same.

Enforcement of ordinances.

SECTION 3. It shall be the duty of the city marshal to see that all the ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water courses in said city are duly observed and kept. The committee on streets shall have a general supervision over all works let by contract for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide.

Construction and repair of sidewalks.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials, and in such time as the common council, by ordinance, resolution or order, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered; if the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time as so directed, the common council may cause the same to be constructed forthwith, at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable responsible bidder, and notice shall be given by publication in the official paper of the city, at least for three days, of the time, place and manner of receiving such bids.

Improvements made by two-thirds vote.

SECTION 5. The common council shall have power, by a vote of two-thirds of all the members of the common council, to order the building, construction, reconstruction or repair of sidewalks in the city of Marshfield in such manner as it may deem proper. The city clerk shall receive all pro-

posals for constructing or repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder; provided, such bid is a reasonable one, subject to such provisions in the case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks and levying and collecting special taxes on respective lots to pay for the same, shall be the same as herein provided as in case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalks shall receive any pay therefor from the city under any circumstances, until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which, in the opinion of the street committee, will not cost to exceed the amount of five dollars ($5), in front of any one lot to repair the same, it shall be authorized and it is hereby made his duty to cause the same to be immediately repaired; and when the same is completed he shall make out an itemized bill of the costs of such repair, specifying the lot and block or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Marshfield, for payment, and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in the city of Marshfield, the said committee shall return said account to the common council with his certificate, stating that fact, and the council shall thereupon levy a special tax to pay the same in the manner in this section provided.

Work to be let to lowest bidder.

SECTION 6. The common council of said city shall have power, and may in its discretion, by a vote of two-thirds of its members, advertise and

let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of any sidewalk or gutter, or the making of improvement on or along any street or highway in said city limits which shall have been ordered.

Further regarding repair of streets.

SECTION 7. The common council of the city of Marshfield shall have the power by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading, paving and repairing, and cleansing of streets and parts of streets, alleys, public or private grounds, reservoirs, gutters and sewers, in the manner herein mentioned, and direct and control the persons employed thereon.

Surveying expenses to be paid by city.

SECTION 8. The cost and expenses of surveying lands, streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvements, shall be chargeable to and payable by the city. Sewers and gutters may be ordered by the common council and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which such sewer or gutter shall be constructed; provided, however, that when sewers or gutters are constructed through alleys, no lot shall be assessed therefor, except those situated in the block through which such sewers or gutters may be constructed; and, provided, further, that in all cases when improvements or work of any kind are chargeable, by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds, shall be made and paid for by the city, in proportion to the width of the street, alley or public ground.

Whole expense of improvement to be authorized.

SECTION 9. Whenever the common council shall determine to make any public improvement as authorized by this chapter, it shall cause to be made an estimate of the whole expense thereof, and such estimate shall be filed in the office of the city clerk, for the inspection of the parties interested before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such

time and under such conditions, and to give such security for the performance of such work as it shall direct; such contract when approved by the council, to be executed on the part of the city by the mayor and countersigned by the city clerk; notice of the time and place of receiving such bids to be published for ten days in the official paper of said city. The common council, instead of letting such work by contract to the lowest bidder, may, by an affirmative vote of two-thirds of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvement, to be done directly by and under the supervision of a street committee, at the uniform expense, in whole or in part of the lots or parcels of land abutting or fronting on such street or public improvement.

In case of deep cutting.

SECTION 10. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots and lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the council in writing that the expenses of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders, not residents of the ward nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the streets so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof in writing as soon as practicable, but within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided; in case such owners shall not do such work, the remainder shall be assessed upon the lots benefited

by such improvement, in proportion to their respective benefit, as determined by said jury. The sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment, in the same manner as other special assessments for improvements are collected; provided, that should said jury find that said petitioners were not entitled to any division of the expense so assessed upon their lots or parcels of land, then the expenses of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same upon the filing of the petition; provided, also, that the petition of no owner feeling himself aggrieved shall be received unless the same be presented within twenty days after the publication of the notice requiring the same to be done; and provided further, that when it shall appear to the council that any such lands belong to non-residents, infants, or persons laboring under legal disability, who shall not be represented by an agent or guardian, or not to be benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall then be the duty of the said council to cause to be summoned a jury as herein provided.

Street commissioner to have charge of work.

SECTION 11. All work provided for in this chapter shall be done under the supervision of the street committee, and shall be approved by it before it shall be accepted by the council.

Contractor shall be entitled to certificate for work done.

SECTION 12. Whenever any work has been done under contract as provided in this act, and the work shall have been approved by the mayor, street committee and city surveyor, such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor and the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon; and if the amount is not paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and the common council shall order the same assessed upon the said lots of land respectively, as a special tax, and to be collected therefrom for the benefit of the holder of said certificate as other taxes on real estate are collected by virtue of the laws of this state, except that per-

sonal property shall not be seized or sold for the payment thereof, and if the notice to do the work required shall have been given as herein prescribed no informality or error in the proceedings shall invalidate or vitiate such assessment; provided, that in no event where work is ordered to be done at the expense of any lot or parcel of land shall the city be held responsible for or on account thereof, or for any proceedings for the collection of the pay therefor.

Amount of highway tax to be levied.

SECTION 13. The common council of the city of Marshfield shall, on or before the first Monday in May in each year, determine and levy the amount of highway tax in said city for the ensuing year, for the purpose of constructing and repairing streets, highways and bridges in said city, which amounts shall not be less than two (2) or more than five (5) mills on the dollar upon all taxable property of said city, as the same shall appear by the last assessment roll of said property, and said tax shall be paid in money or labor, according to the general law now in force on said subject.

Clerk shall deliver a list to treasurer.

SECTION 14. The city clerk shall, within fifteen days after said highway tax shall be so levied, make out and deliver to the city treasurer a list of all persons liable to pay highway tax in said city, which list shall also contain a statement of all the taxable personal property, and a description of all lots or parcels of land within said city, with the value of each lot or parcel set opposite to such description, as the same shall appear on the assessment roll of the previous year, and if such lot or tract was not separately described in such roll, then in such proportion to the valuation which shall have been affixed to the whole tract of which such lot or parcel forms a part, and the amount of such tax shall be carried out in a separate column, opposite the name of each person or persons, corporation or corporations, to whom each item of taxable property upon said list is to be assessed.

Duplicate list.

SECTION 15. The city clerk shall make a duplicate of such list, both of which shall be signed by the mayor and countersigned by the city clerk, one of which shall be filed in the office of the city clerk, and the other shall be delivered to the city treasurer.

Warrant to be annexed.

SECTION 16. The city clerk shall annex to each such tax list a warrant, signed by the mayor and

the city clerk, which shall be in substance in the following form:

Form of warrant.

To A B., treasurer of the city of Marshfield:

You are hereby required to collect from the several persons and corporations named in the annexed tax list, and from the owners of the real estate described therein, the taxes set opposite to such persons, corporations and property, within the time limited by law, and to apply the taxes by you so collected, and make due returns thereof as required by law.

Dated ——— day of ——— 18—.

———— ————, City Clerk.
———— ———— Mayor.

Treasurer.

SECTION 17. The treasurer shall have the same powers and proceed to collect said taxes, in the same manner as in the collection of general taxes, and in case the said treasurer shall be unable to collect any portion of said tax he shall, on or before the third Monday in November in each year, make out and deliver to the city clerk of said city a list of all such unpaid taxes which list shall contain the names of all persons, corporation or corporations, and the description of all real estate or personal property included in said tax roll, and the amount of such tax against each of such descriptions or items so uncollected, which said list shall be sworn to by said city treasurer, before some officer authorized to administer oaths.

Delinquent tax list.

SECTION 18. Upon the receipt of such list, the city clerk, shall, at the time of making out the general annual tax roll of said city for that year, place in a separate column on said roll the amount of said delinquent tax against the proper description of real estate and personal property, which shall be collected or returned in the same manner as general taxes are collected or returned by law.

CHAPTER VI.

MISCELLANEOUS PROVISIONS.

To be let by contract.

SECTION 1. All work for the city or either wards, including all printing and publishing, may, in the discretion of the council, unless otherwise ordered, be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting the contracts.

No moneys appropriated unless authorized.

SECTION 2. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by the act.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a two-thirds vote of the aldermen elect. Remitting penalties.

SECTION 4. The common council may, at any time, cause a new and accurate survey to be made of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent land marks as it may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk and recorded in the office of the register of deeds of the county of Wood. Survey to be made.

SECTION 5. The surveys and land marks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state. Prima facie evidence.

SECTION 6. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Wood county; and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor, shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained, shall be so construed as to prevent the street commissioner of the several wards of said city from ordering or causing to be done the grading of any street within their ward to a temporary grade, to be established by such commissioner. Regarding grades of streets, etc.

SECTION 7. The city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same while owned, occupied or held by the said city shall be exempt from taxation. Hold real estate.

SECTION 8. Real estate exempt from taxation by the laws of this state shall be subject to special taxation, as other real estate under this act. Real estate subject to special taxation.

SECTION 9. Every individual or company of in-

cause the summons or warrant and return, together with the proceedings, and copies of the entries on his docket in the action, together with the recognizances, to be filed in the office of the clerk of said court; and the city may appeal from any such judgment as in other cases before justices of the peace.

Appeal to be tried by jury.

SECTION 11. Said appeal shall stand for trial by jury, unless a jury be waived in a manner provided by law, in said circuit court, at the next term thereof after the day the judgment of the justice shall be rendered, and no notice of trial shall be required to be given to or by either party.

If judgment of justice is affirmed.

SECTION 12. If the judgment of the justice shall be affirmed, or if, upon trial, the defendant shall be convicted, the court shall inflict the penalty provided by this act or the ordinance, resolution, by-law or regulation under which he or they are prosecuted, and enter judgment against him or them and their sureties for such penalty, together with the costs in both courts, and enforce the same by execution as in actions of tort.

Shall not work incompetency.

SECTION 13. No person shall be an incompetent judge, justice, juror or witness by reason of his being an inhabitant of said city, in any proceeding or action in which the city shall be a party in interest.

All ordinances to remain in force.

SECTION 14. All ordinances, and regulations now in force in the city of Marshfield, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council after this act shall take effect.

Corporation shall prosecute.

SECTION 15. All actions, rights and penalties, fines and forfeitures, in suits, or otherwise, which have arisen or accumulated under the several acts consolidated herein, shall be vested in and prosecuted by the corporation hereby created.

In case of suits against city, service of summons.

SECTION 16. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the process of summons with the mayor or clerk of said city, and it shall be the duty of said mayor or clerk so served, forthwith to inform the common council thereof, or to take such demand or proceedings, as by ordinance or resolution of said council may be in such case provided.

Penalties.

SECTION 17. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury, for the use

and benefit of said city, except as provided in chapter 9, of this act.

SECTION 18. All fire engines, hose-carts, hooks and ladders, and wagons therefor, and all other apparatus and implements used to extinguish fire, and all houses or buildings owned or occupied by said city for such engines, hose, hose-carts, hooks and ladders and other apparatus and implements, shall be exempt from attachment or execution issued in any action, or on any judgment wherein the said city shall be a party. Property exempt from attachment.

SECTION 19. No real or personal property of any inhabitant of said city, or of any individual or corporation, shall be levied on or sold by virtue of any attachment or execution issued to collect or satisfy any contract, debt or obligation of said city, on any judgment against said city. Property shall not be sold on attachment.

SECTION 20. In all cases where a defendant shall be convicted of any violation of any ordinance or police regulations of said city, the court before whom the same is tried shall have power to sentence the defendant to a term of imprisonment in the common jail of Wood county, for any period not exceeding six months. Imprisonment in county jail.

SECTION 21. The mayor shall have power to grant pardons or commutations after convictions, against the ordinances of the city, upon such conditions as he may deem proper. He shall communicate any such actions to the council at its next meeting, with the reasons therefor. Pardon power.

CHAPTER V.

IMPROVEMENT OF THE STREETS AND SIDEWALKS.

SECTION 1. Every ordinance, resolution or by-law providing for the repairing, construction or reconstruction of any sidewalk or gutter, or for the grading, repairing or improving of any street at the expense, in whole or in part, of the owners of the lots or parcels of land abutting or fronting such sidewalk, gutter or street, shall, on being introduced at a meeting of the common council, be referred to some appropriate committee, and any such ordinance, resolution or by-law shall not be passed or adopted sooner than fourteen days after the introduction thereof, nor until ten days after the proceedings of the council had relative thereto, at the meeting when such ordinance, resolution or by-law was introduced, shall have been published in the official newspaper of said city. Regarding streets and sidewalks.

Establishing grades.

SECTION 2. The common council of the city of Marshfield shall have power to establish the grade of the streets of said city, and change and re-establish such grade as it shall deem expedient: provided, that whenever it shall change or alter the grade of any street, any person who shall claim to have sustained damages by such change or alteration of grade, shall have his right of action against the city for the recovery of such damages; but no suit shall be commenced therefor, until application has been made to the common council to pay such damages, and said council shall have refused or neglected for three months to pay or settle the same.

Enforcement of ordinances.

SECTION 3. It shall be the duty of the city marshal to see that all the ordinances of the city relating to the obstruction and cleansing of sidewalks, streets, alleys, public grounds, reservoirs, gutters, sewers, waters and water courses in said city are duly observed and kept. The committee on streets shall have a general supervision over all works let by contract for the improvement of streets or sidewalks in said city, unless the common council shall otherwise provide.

Construction and repair of sidewalks.

SECTION 4. Sidewalks shall be constructed, reconstructed or repaired upon the proper established grade of any street in said city, of such width, in such manner, of such materials, and in such time as the common council, by ordinance, resolution or order, shall direct, by the owner or owners of any lot or piece of ground in front of which such sidewalk shall be ordered; if the owner or owners of any such lot or piece of ground shall not construct such sidewalk as aforesaid, in the manner, of the material, or at the time as so directed, the common council may cause the same to be constructed forthwith, at the expense of such owner or owners. The contract for the construction of any such sidewalk shall be let to the lowest reasonable responsible bidder, and notice shall be given by publication in the official paper of the city, at least for three days, of the time, place and manner of receiving such bids.

Improvements made by two-thirds vote.

SECTION 5. The common council shall have power, by a vote of two-thirds of all the members of the common council, to order the building, construction, reconstruction or repair of sidewalks in the city of Marshfield in such manner as it may deem proper. The city clerk shall receive all pro-

posals for constructing or repairing sidewalks, and shall open them in the presence of the council, which shall award the contract to the lowest responsible bidder; provided, such bid is a reasonable one, subject to such provisions in the case of violation of contract, and to such other particular provisions as the council may prescribe. The proceedings for ordering the repair of sidewalks and levying and collecting special taxes on respective lots to pay for the same, shall be the same as herein provided as in case of constructing a new sidewalk, except as otherwise provided in this section. No contractor for building or repairing sidewalks shall receive any pay therefor from the city under any circumstances, until the tax levied for that purpose shall have been paid to the city or county. Whenever a sidewalk shall be out of repair and so remain for the space of twenty-four hours, which, in the opinion of the street committee, will not cost to exceed the amount of five dollars ($5), in front of any one lot to repair the same, it shall be authorized and it is hereby made his duty to cause the same to be immediately repaired; and when the same is completed he shall make out an itemized bill of the costs of such repair, specifying the lot and block or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the city clerk, and said clerk shall forthwith present the same to the owner of such lot, piece or parcel of land, if a resident of the city of Marshfield, for payment, and if the owner of such lot, piece or parcel of land shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land, to pay the same, in the same manner as special taxes are levied for the construction of sidewalks. In case the owner of such lot, piece or parcel of land does not reside in the city of Marshfield, the said committee shall return said account to the common council with his certificate, stating that fact, and the council shall thereupon levy a special tax to pay the same in the manner in this section provided.

Work to be let to lowest bidder.

SECTION 6. The common council of said city shall have power, and may in its discretion, by a vote of two-thirds of its members, advertise and

let to the lowest responsible bidder, whose bid it shall deem reasonable and proper, the construction of any sidewalk or gutter, or the making of improvement on or along any street or highway in said city limits which shall have been ordered.

Further regarding repair of streets.

SECTION 7. The common council of the city of Marshfield shall have the power by an affirmative vote of two-thirds of all its members, to order and contract for the making, grading, paving and repairing, and cleansing of streets and parts of streets, alleys, public or private grounds, reservoirs, gutters and sewers, in the manner herein mentioned, and direct and control the persons employed thereon.

Surveying expenses to be paid by city.

SECTION 8. The cost and expenses of surveying lands, streets, alleys, sewers and gutters, and of estimating work thereon, in the execution of any public improvements, shall be chargeable to and payable by the city. Sewers and gutters may be ordered by the common council and built at the expense of the lots or parts of lots benefited thereby, and fronting upon the side of the street along which such sewer or gutter shall be constructed; provided, however, that when sewers or gutters are constructed through alleys, no lot shall be assessed therefor, except those situated in the block through which such sewers or gutters may be constructed; and, provided, further, that in all cases when improvements or work of any kind are chargeable, by virtue of this section, upon lots benefited, all such improvements across streets, alleys and public grounds, shall be made and paid for by the city, in proportion to the width of the street, alley or public ground.

Whole expense of improvement to be authorized.

SECTION 9. Whenever the common council shall determine to make any public improvement as authorized by this chapter, it shall cause to be made an estimate of the whole expense thereof, and such estimate shall be filed in the office of the city clerk, for the inspection of the parties interested before such work shall be ordered to be done. The common council may authorize the letting of such work by contract to the lowest bidder, at the expense of the lots upon which such work is chargeable, in whole or in part, as aforesaid, all bids for doing the same to be approved by the council; and the said council shall have power to reject any and all bids, and may require such contractors to perform such contract within such

time and under such conditions, and to give such security for the performance of such work as it shall direct; such contract when approved by the council, to be executed on the part of the city by the mayor and countersigned by the city clerk; notice of the time and place of receiving such bids to be published for ten days in the official paper of said city. The common council, instead of letting such work by contract to the lowest bidder, may, by an affirmative vote of two-thirds of the members of the council, order the grading, repairing or improving of any street, or the making of any public improvement, to be done directly by and under the supervision of a street committee, at the uniform expense, in whole or in part of the lots or parcels of land abutting or fronting on such street or public improvement.

In case of deep cutting.

SECTION 10. Whenever the general interests of the city require deep cutting or extraordinary filling in any street, and the owners of the lots and lands fronting on such deep cutting or filling shall deem themselves aggrieved thereby, and shall represent to the council in writing that the expenses of such excavation or filling will exceed the proportion that should be justly or equitably charged upon the property assessed therefor, the council shall require the marshal to summon five freeholders, not residents of the ward nor interested in said lots or lands, who, after being sworn faithfully and impartially to discharge the trust reposed in them, shall examine the premises within five days therefrom, and if in their opinion the cost of such work will exceed the amount that should be justly and equitably chargeable upon said premises, it shall be their duty to determine what portion of such work shall be chargeable to such lots or parcels of land respectively, and what lots and parcels of land on the streets so to be improved will be benefited by such deep cutting or filling, and how much or what portion shall be chargeable to them, and to make a report thereof in writing as soon as practicable, but within ten days after such examination, to the common council; and such proportion as shall be reported as properly chargeable to the lots or parcels first mentioned, shall be assessed upon and collected from the same, in the same manner as herein provided; in case such owners shall not do such work, the remainder shall be assessed upon the lots benefited

by such improvement, in proportion to their respective benefit, as determined by said jury. The sum so assessed shall become a lien upon the premises assessed, and shall be collected therefrom as a special assessment, in the same manner as other special assessments for improvements are collected; provided, that should said jury find that said petitioners were not entitled to any division of the expense so assessed upon their lots or parcels of land, then the expenses of all proceedings under this section shall be paid by said petitioners, and the common council may require a bond for the payment of the same upon the filing of the petition; provided, also, that the petition of no owner feeling himself aggrieved shall be received unless the same be presented within twenty days after the publication of the notice requiring the same to be done; and provided further, that when it shall appear to the council that any such lands belong to non-residents, infants, or persons laboring under legal disability, who shall not be represented by an agent or guardian, or not to be benefited by the making of streets in front of such lots or lands to the amount of the costs and expenses thereof, it shall then be the duty of the said council to cause to be summoned a jury as herein provided.

Street commissioner to have charge of work.

SECTION 11. All work provided for in this chapter shall be done under the supervision of the street committee, and shall be approved by it before it shall be accepted by the council.

Contractor shall be entitled to certificate for work done.

SECTION 12. Whenever any work has been done under contract as provided in this act, and the work shall have been approved by the mayor, street committee and city surveyor, such contractor shall be entitled to a certificate therefor, stating the amount of work done by such contractor and the nature thereof, and the description of the lot or parcel of land upon which the same is chargeable, which said certificate may be transferred by endorsement thereon; and if the amount is not paid before the time of making out the annual assessment roll, the same may be filed with the city clerk, and the common council shall order the same assessed upon the said lots of land respectively, as a special tax, and to be collected therefrom for the benefit of the holder of said certificate as other taxes on real estate are collected by virtue of the laws of this state, except that per-

sonal property shall not be seized or sold for the payment thereof, and if the notice to do the work required shall have been given as herein prescribed no informality or error in the proceedings shall invalidate or vitiate such assessment; provided, that in no event where work is ordered to be done at the expense of any lot or parcel of land shall the city be held responsible for or on account thereof, or for any proceedings for the collection of the pay therefor.

Amount of highway tax to be levied.

SECTION 13. The common council of the city of Marshfield shall, on or before the first Monday in May in each year, determine and levy the amount of highway tax in said city for the ensuing year, for the purpose of constructing and repairing streets, highways and bridges in said city, which amounts shall not be less than two (2) or more than five (5) mills on the dollar upon all taxable property of said city, as the same shall appear by the last assessment roll of said property, and said tax shall be paid in money or labor, according to the general law now in force on said subject.

Clerk shall deliver a list to treasurer.

SECTION 14. The city clerk shall, within fifteen days after said highway tax shall be so levied, make out and deliver to the city treasurer a list of all persons liable to pay highway tax in said city, which list shall also contain a statement of all the taxable personal property, and a description of all lots or parcels of land within said city, with the value of each lot or parcel set opposite to such description, as the same shall appear on the assessment roll of the previous year, and if such lot or tract was not separately described in such roll, then in such proportion to the valuation which shall have been affixed to the whole tract of which such lot or parcel forms a part, and the amount of such tax shall be carried out in a separate column, opposite the name of each person or persons, corporation or corporations, to whom each item of taxable property upon said list is to be assessed.

Duplicate list.

SECTION 15. The city clerk shall make a duplicate of such list, both of which shall be signed by the mayor and countersigned by the city clerk, one of which shall be filed in the office of the city clerk, and the other shall be delivered to the city treasurer.

Warrant to be annexed.

SECTION 16. The city clerk shall annex to each such tax list a warrant, signed by the mayor and

the city clerk, which shall be in substance in the following form:

Form of warrant.

To A B., treasurer of the city of Marshfield:

You are hereby required to collect from the several persons and corporations named in the annexed tax list, and from the owners of the real estate described therein, the taxes set opposite to such persons, corporations and property, within the time limited by law, and to apply the taxes by you so collected, and make due returns thereof as required by law.

Dated ——— day of ——— 18—.

———— ————, City Clerk.

———— ———— Mayor.

Treasurer.

SECTION 17. The treasurer shall have the same powers and proceed to collect said taxes, in the same manner as in the collection of general taxes, and in case the said treasurer shall be unable to collect any portion of said tax he shall, on or before the third Monday in November in each year, make out and deliver to the city clerk of said city a list of all such unpaid taxes which list shall contain the names of all persons, corporation or corporations, and the description of all real estate or personal property included in said tax roll, and the amount of such tax against each of such descriptions or items so uncollected, which said list shall be sworn to by said city treasurer, before some officer authorized to administer oaths.

Delinquent tax list.

SECTION 18. Upon the receipt of such list, the city clerk, shall, at the time of making out the general annual tax roll of said city for that year, place in a separate column on said roll the amount of said delinquent tax against the proper description of real estate and personal property, which shall be collected or returned in the same manner as general taxes are collected or returned by law.

CHAPTER VI.

MISCELLANEOUS PROVISIONS.

To be let by contract.

SECTION 1. All work for the city or either wards, including all printing and publishing, may, in the discretion of the council, unless otherwise ordered, be let by contract to the lowest bidder, and due notice shall be given of the time and place of letting the contracts.

No moneys appropriated unless authorized.

SECTION 2. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by the act.

SECTION 3. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a two-thirds vote of the aldermen elect. Remitting penalties.

SECTION 4. The common council may, at any time, cause a new and accurate survey to be made of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent land marks as it may deem necessary, and to cause an accurate plat or plats thereof to be made and certified to by the surveyor, which shall be filed in the office of the city clerk and recorded in the office of the register of deeds of the county of Wood. Survey to be made.

SECTION 5. The surveys and land marks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state. Prima facie evidence.

SECTION 6. The common council may, at such time as it may deem proper, establish the grades of all streets, alleys and sidewalks of said city, or any or either of them, and shall cause accurate profiles thereof to be made, one of which shall be filed in the office of the register of deeds of Wood county; and should the grade so established be at any time thereafter altered, all damages, costs and charges therefor, shall be paid by the city to the owner of any lot or parcel of land or tenement which may be affected or injured in consequence of the alteration of such grade; provided, however, that nothing in this section contained, shall be so construed as to prevent the street commissioner of the several wards of said city from ordering or causing to be done the grading of any street within their ward to a temporary grade, to be established by such commissioner. Regarding grades of streets, etc.

SECTION 7. The city may have, purchase and hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same while owned, occupied or held by the said city shall be exempt from taxation. Hold real estate.

SECTION 8. Real estate exempt from taxation by the laws of this state shall be subject to special taxation, as other real estate under this act. Real estate subject to special taxation.

SECTION 9. Every individual or company of in-

New plat ted lots to correspond.

dividuals or body corporate, owning a lot or tract of land within the corporate limits of the city of Marshfield, who may desire to subdivide or plat such lot or tract of land into city lots, shall, in platting the same, cause the streets and alleys in such plat to correspond, in width and general direction, with the streets and alleys through the lots and blocks in said city adjacent to said lot or tract so platted; and before making such plat as required by law, it shall be the duty of such person or persons or corporation making such plats to submit the same to the common council of said city for approval; and if said plat shall be approved by the common council, the said person or persons or corporation may cause said plat or plats to be recorded according to law; but except such plat be approved by a resolution adopted by said council, a copy of which, duly certified by said clerk shall be affixed to or entered on such plat, it shall not be lawful for the register of deeds of the county of Wood to receive such plat for record, or to record the same, and the person or persons neglecting or refusing to comply with the requirements of this act, shall forfeit and pay a sum not less than one hundred (100) nor more than one thousand dollars ($1,000), and the register of deeds who shall record such plat without a copy of the resolution aforesaid approving the same, being entered on or affixed thereto, shall forfeit a sum not less than fifty (50) nor more than one thousand dollars ($1,000).

Deeds.

SECTION 10. When the city of Marshfield deeds or leases any real estate or any interest therein owned by the said city, the party of the first part shall be the city of Marshfield, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Mayor shall sign deed.

SECTION 11. The mayor of said city is hereby authorized when the common council shall, by ordinance or resolution for that purpose, describe the real estate and interest to be conveyed under and direct him so to do, to execute a deed or lease of such real estate or interest therein belonging to the said city. The said deed or lease shall be signed by the mayor of said city, and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged as is provided for the execution of deeds and conveyances.

SECTION 12. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds with said deed or lease; and such copy so attached and record thereof, shall be in all courts of this state *prima facie* evidence of the authority of the mayor to make and execute such deed or lease. City clerk shall attest.

SECTION 13. If any election by the people for common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the council shall fail to organize as herein prescribed, it shall not be considered reason for arresting, suspending or absolving said corporation, but such election or organization may be had at any subsequent day by order of the common council; and if any of the duties enjoined by this act, or the ordinances or by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may then appoint another time at which said act may be done and performed. Failure to hold election at regular time shall not suspend corporation.

SECTION 14. No general law of this state contravening the provisions of this act shall be considered as repealing, annulling or modifying the same, unless such purpose be expressly set forth in such law as an amendment to this chapter. Not repealing.

SECTION 15. The common council shall have power to appropriate a sum not exceeding five hundred dollars ($500), to any public purpose that may be deemed proper, but no such appropriation shall be made unless ordered by a two-thirds vote of all the aldermen elect. $500 may be appropriated.

SECTION 16. Every male inhabitant of the city of Marshfield, over twenty-one years of age and under fifty, except active members of the fire department, and those otherwise exempt by the general laws of this state, shall pay into the city treasury annually, the sum of one dollar and fifty cents ($1.50) each, as a poll tax. It shall be the duty of the assessor of the city of Marshfield, during the month of April, of each year, to make out duplicate lists of all persons liable to said tax in the city of Marshfield, and said assessor shall, on the last Monday of April of each year, deliver one of the said lists to the city clerk, and one to the treasurer of said city of Marshfield. The said treasurer shall thereupon immediately proceed to Poll tax.

collect the same, and all persons liable to pay such tax who shall not have paid the same after demand, either personally or by written notice left at their usual place of abode, on or before the first day of June of each year, shall be liable to and pay a penalty of two dollars ($2.00) in addition to said poll tax, together with costs of prosecution, to be prosecuted for by said treasurer, in the name of the city of Marshfield. The process in each case shall be by warrant, as provided for in chapter 4 of this act, entitled, "actions to recover penalties, etc.;" and in case judgment shall be rendered against the defendant in such action, and he shall refuse or neglect to pay such judgment, he shall be imprisoned in the county jail ten days. The moneys collected as herein provided for, shall be kept as a distinct fund, and shall be expended for the benefit and improvement of the streets of the city of Marshfield. The mayor, city clerk and treasurer shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said lists shall be delivered to the treasurer as aforesaid. The city treasurer shall receive the same fees for collecting said tax as he does for collecting taxes assessed upon real estate and personal property; provided, that if any person shall desire to, he shall be permitted to perform one day's work upon the streets of the city, in the ward in which he resides, and the certificate of the street committee that such person has performed one full day's labor shall be received by the city treasurer in full discharge of such tax.

Jurisdiction of police.

SECTION 17. The jurisdiction of the police justice of the city of Marshfield shall be co-extensive with the county of Wood, and the said police justice shall have exclusive jurisdiction to try all criminal cases and conduct all examinations within said city in which the city is a party under the laws in which justices of the peace have jurisdiction, and according to this act. And the police justice shall have and possess all the rights, powers and privileges of said justices of the peace, and all the laws of this state concerning justices' court shall apply to the police court of the city of Marshfield, except so far as the said law conflicts with the provisions of this act.

SECTION 18. In all cases where an action might

be brought by the city of Marshfield against any person, company or corporation, such action may be commenced and prosecuted in the name of the city by any electors of said city; provided, that the complaint is made by any person, other than a police officer of said city, sheriff of Wood county or any officer of said city. The justice may, in his discretion, require seventy-five (75) cents, as in civil courts before justices of the peace. Actions against city.

SECTION 19. The common council shall have power to require the owner of any lot or grounds in the city to set out ornamental trees in the street or streets fronting on the same, and in default thereof, to cause the same to be done, and to levy a special tax upon such lot or grounds to pay the expenses of the same. Ornamental trees.

SECTION 20. This act is hereby declared to be a public act, and shall be liberally construed in all courts of this state. Public act.

SECTION 21. The legal indebtedness of the town of Marshfield shall be apportioned by the board of supervisors of the town of Marshfield, upon an apportionment based upon the assessment of said town for the year 1882; and by such apportionment said supervisors shall determine what portion of said legal indebtedness of said town shall be chargeable to the said town of Marshfield and the city of Marshfield, respectively, which amounts of such indebtedness, so apportioned, is hereby declared chargeable to said town of Marshfield and city of Marshfield, respectively, at such times as the same may become due and payable; and said board of supervisors of the town of Marshfield shall, in like manner, on or before April 1, 1883, or as soon thereafter as practicable, apportion the general funds and other property of the town of Marshfield to the said town of Marshfield and city of Marshfield, respectively, and the said board of supervisors shall make an order directing the treasurer of the town of Marshfield to pay the amount of such general funds so apportioned to the city of Marshfield, to the treasurer of said city, and take his receipt therefor, which receipt shall be his voucher for the amount so paid. Apportionment of legal indebtedness.

SECTION 22. The mayor and common council of said city of Marshfield shall not be entitled to receive any compensation for their services, and the compensation of the city clerk shall not ex- Compensation.

ceed the sum of one hundred dollars ($100) in any one year.

SECTION 23. This act shall take effect and be in force from and after its passage and publication in the official state paper.

Approved April 2, 1883.

[No. 372, A.] [Published April 8, 1883.]

CHAPTER 307.

AN ACT to amend sub-section 1, of section 3, of sub-chapter 4, of chapter 184, of the laws of 1874, entitled "an act to revise, consolidate and amend the charter of the city of Milwaukee, approved February 20th, 1852, and the several acts amendatory thereof."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment.

SECTION 1. Sub-section 1, of section 3, of sub-chapter 4, of chapter 184, of the laws of 1874, entitled "an act to revise, consolidate and amend the charter of the city of Milwaukee, approved February 20th, 1852, and the several acts amendatory thereof," is hereby amended so as to read as follows: 1st. To regulate groceries, taverns, victualing houses, saloons, gardens and all other places within said city, where wines and other liquors are sold for any purpose, and whether they are sold to be drank on the premises or otherwise, and to license, regulate and restrain tavern keepers, groceries, wholesale liquor dealers, druggists, keepers of ordinaries, saloons, victualing houses or other houses or places for the selling or giving away spirituous, vinous or fermented liquors; and to classify, grade and regulate the amount to be paid for licenses for dealing in or vending spirituous, vinous or fermented liquors, in proportion to the amount dealt in or vended; and to prescribe the time for which such license shall be granted; and to restrain any person from vending, giving or dealing in spirituous, vinous or fermented liquors unless duly licensed by authority of the common council; provided, the amount to be charged for any such license shall not, in any case, be less than the minimum sum, nor more than the maximum sum required by the general laws of this state, to be paid for like licenses in its towns and villages of the state, under the gen-

eral laws which are hereby made applicable to all licenses granted hereunder, nor shall any license be granted for a less term than six months. No license issued under authority of said council shall be transferable from one person to another. And all moneys received by said city for such licenses shall be paid into and be part of the general fund of said city; provided, that nothing in this act contained shall be construed to compel druggists to pay such license fee for the sale of any spirituous, vinous or fermented liquors contained in any medicine compounded by them.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 3, 1883.

[No. 393, A.] [Published April 8, 1883.]

CHAPTER 308.

AN ACT to amend sub-section 40, of section 3, of sub-chapter 4, of chapter 184, of the laws of 1874, entitled "an act to revise, consolidate and amend the charter of the city of Milwaukee, approved February 20, 1852, and the several acts amendatory thereof," and the several acts amendatory thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Sub-section 40, of section 3, of sub-chapter 4, of chapter 184, of the laws of 1874, as amended by section 2, of chapter 311, of the laws of 1876, and as further amended by section 10, of chapter 324, of the laws of 1882, is hereby further amended so as to read as follows: 40. To tax, license and regulate road vehicles of any and every kind and description, and the use or letting for use, of telephone instruments, to tax, license and regulate auctioneers, distillers, brewers and pawnbrokers, and all keepers or proprietors of intelligence offices, junk shops and places for the sale and purchase of second hand goods, wares and merchandise, and to tax, license, regulate and restrain hawkers, peddlers and venders of milks, and runners or solicitors for steamboats, vessels, cars, railroads, stages, public houses and other establishments; and other runners, including runners or solicitors for mercantile houses from other cities and towns for the sale of goods, wares and

Amendment.

merchandise by sample, order or otherwise; and keepers or proprietors of gift book stores, gift concerts and other gift enterprises; and persons engaged, and to fix and regulate the amount of license under this sub-division, and to prescribe the time for which such licenses shall be granted, and to provide and enforce penalties for carrying on either of said trades, kinds of business or employments, or using such vehicles without license, and to regulate the manner in which they shall be carried on or used; provided, that no such license shall be granted for a less term than three months nor for a longer term than one year, and that the amount to be so paid for any such license shall not be less than at the rate of one dollar ($1.00) per year, nor greater than at the rate of five hundred dollars ($500) per year, for the carrying on of either of said trades, kinds of business or employments; provided, that the provisions of this act shall not apply to dealers or venders in malt, spirituous, ardent or intoxicating liquors.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 3, 1883.

[No. 329, A.] [Published April 17, 1883.]

CHAPTER 310.

AN ACT to amend section 2, of sub-chapter 17, of chapter 184, of the laws of 1874, entitled "an act to revise, consolidate and amend the charter of the city of Milwaukee, approved February 20th, 1852, and the several acts amendatory thereof."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment in regard to levy of taxes.

SECTION 1. Section 2, of sub-chapter 17, of chapter 184, of the laws of 1874, as amended by section 38, of chapter 144, of the laws of 1875, and as further amended by chapter 302, of the laws of 1881, and as further amended by section 12, chapter 308, of the laws of 1882, is hereby further amended so as to read as follows: Section 2. The common council of said city shall have power to levy annually, for the general city fund, exclusive of the amounts required for the support of schools, and for the payment of interest and principal on the funded debt of the city, and other special funds

authorized by law, a sum not exceeding six mills on the dollar of the total assessed valuation of all property, real and personal, in said city subject to taxation; also for contingent fund a sum not exceeding one-half of one mill on the dollar of such assessed valuation; also for a sewerage fund in each sewerage district a sum not exceeding one and one-half mills upon the dollar of the total assessed valuation of all property, real and personal, in such sewerage district subject to taxation; also, for a special sewerage fund for said city, a sum not exceeding one mill upon the dollar of the total assessed valuation of property real and personal, in said city subject to taxation; also, for a fund for ward purposes in each ward, a further sum not exceeding six mills upon the dollar of the total assessed valuation of all property, real and personal, in such ward subject to taxation; and also for the support of all the public schools in said city, including the high school, for the next fiscal year, a further sum not exceeding three and one-half mills upon the dollar of the total assessed valuation of all property, real and personal, in said city subject to taxation; provided, however, whenever the comptroller and board of public works, to meet current and necessary ward expenses, shall deem it necessary or expedient for the common council to levy a larger amount than six mills upon the dollar as aforesaid, in any ward for a ward fund as aforesaid, and shall so certify to the common council on or before the first day of July in any year, it shall be competent for the common council to levy for a ward fund in any such ward, in any such year, a percentage upon the dollar of the total assessed valuation of all property, real and personal, in such ward subject to taxation, not exceeding ten mills; provided also, that the percentage which shall be levied in each ward for ward purposes shall in no case exceed the amount estimated and required by the comptroller and board of public works; and provided further that the aggregate amount of general taxes for all purposes levied by the common council and collected upon the city tax roll for municipal purposes under this section inclusive of taxes, for the support of the public library and the public museum and for the payment of principal and interest of the funded debt of the city, but not inclusive of the tax for the support of schools, shall not, in the whole, for

any one year, exceed fourteen (14) mills on the dollar of the total valuation of property real and personal in said city subject to taxation; and also provided, that it shall not be lawful for the county board of supervisors of Milwaukee county, in determining the amount to be raised by tax in the city of Milwaukee for the support of common schools therein, for any year, to fix an amount greater than the amount apportioned to said city in the last apportionment of the income of the school fund of the state.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 64. A.] [Published April 17, 1883.]

CHAPTER 311.

AN ACT to amend the charter of the city of Two Rivers.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Annual election, when held.

SECTION 1. Section 1, of chapter 2, of the general laws of 1878, is hereby amended so as to read as follows: Section 1. The annual election for ward and city officers shall be held on the first Tuesday in April of each year at such place as the common council shall designate. Ten days' notice shall be given of the time and place of holding such election, and of the officers to be elected, by publication in the official paper. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as at such general elections. Each ward officer shall be a qualified elector for the ward in which he is elected, and each city officer shall be a qualified elector in the city; provided that the said city of Two Rivers shall consist of but one election precinct, and all elections, either general, or special, or charter, shall be held at such place within said city as the common council may designate. That the common council, at a regular or special meeting called for that purpose, in the month of March, 1883, shall appoint inspectors and clerks of elections for said city under the provisions of chapter 264, general laws of 1877, and

such inspectors and clerks so appointed shall hold their office as such inspectors and clerks until the next annual appointment of inspectors and clerks in September, A. D. 1883, as provided by law.

Officers to be elected.

SECTION 2. Section 2, of chapter 2, of the general laws of 1878, is hereby amended so as to read as follows: Section 2. The officers to be elected by the qualified electors of said city shall be a mayor, treasurer, assessor, and two aldermen for each ward in said city, one of whom shall be designated as supervisor, and shall be entitled to represent his ward in the county board of supervisors, one constable and one justice of the peace for each ward. All other necessary officers shall be appointed by the common council. All elective officers except justices of the peace shall, unless elected to fill a vacancy, hold their respective offices for one year and until their successors are elected and qualified; provided, however, the council shall have power for due cause, satisfactory to it, to expel any of its own number, and to remove from office any officer or agent of the city, except justices of the peace, due notice and an opportunity for a hearing having been first given to the officer proposed to be removed. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified. And the term of all appointed officers shall be for one year, and until [their] successors are appointed and qualified, subject to removal as in this act provided.

Street commissioner to make report.

SECTION 3. Section 10, of chapter 6, of the general laws of 1878, is hereby repealed, and in lieu thereof, substitute the following: Section 10. Every street commissioner appointed under this act shall, on or before the first Monday in November in each year, render an account under oath to the common council showing the amount of money that has been expended by him, specifying the work for which it was expended and by whom performed; such account shall be rendered as often as the common council shall require.

Assessment of highway tax.

SECTION 4. Section 11, of chapter 6, of the general laws of 1878, is hereby repealed, and in lieu thereof, substitute the following: Section 11. The common council shall, at its first, or at a subsequent meeting, on or before the second Monday in May, assess the highway tax for street and highway purposes for the ensuing year, to an

amount not less than one (1) nor more than five (5) mills on the dollar, on the valuation of the real and personal property in said city for the current year, and the city clerk shall, under the direction of the common council, set opposite to the name of each person and corporation, and to each description of taxable property, the amount of such tax charged to each, respectively, in the annual tax roll of the city, and such taxes shall be collected in all respects as other taxes are collected. Said taxes, when collected, shall be held by the city treasurer, and paid out as directed by the common council. Said moneys shall be expended under the direction of the common council, on such streets, in such places and under the supervision of such persons as the council may designate.

Repealed.

SECTION 5. All of section 12, of chapter 6, of the general laws of 1878, is hereby repealed.

SECTION 6. Section 5, of chapter 7, of the general laws of 1878, is hereby repealed, and in place thereof, substitute the following: Section 5. 1st. The assessors elected by virtue of this act shall be governed by the general laws of this state.

Board of review.

2nd. The board of review shall be governed by the general laws of the state, and receive compensation as provided therein, and shall consist of the city mayor as chairman *ex officio*, the city clerk as clerk of said board *ex officio*, the assessor and the alderman of each ward who represents the ward in the county board of supervisors.

Duty of city treasurer.

SECTION 7. Section 11, of said chapter 7, of the general laws of 1878, is hereby repealed and in place thereof substitute the following: Section 11. The city treasurer, upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers, and be subject to like requirements, liabilities and restrictions as is a town treasurer, except as otherwise provided in this act. The city treasurer shall receive one (1) per cent. fees upon all taxes paid to him before the first day of January, and two (2) per cent. fees upon all taxes collected after that time, to be added to the amount of taxes and collected with the same, one (1) per cent. upon all other moneys paid to the treasury, which shall be in full for all services performed by said treasurer under this act or the ordinances of the city.

Officers to be elected by council.

SECTION 8. Section 1, of chapter 11, of the general laws of 1878, is hereby repealed, and in place thereof, substitute the following: Section 1. There shall be elected by the common council of the city of Two Rivers at the first regular meeting in May of each year, from each ward in said city, one school commissioner, who shall be a resident of the ward from which he is elected; the persons so elected shall hold their offices for the term of three years and until their successors are elected and qualified, and the common council may make appointments of school commissioners to fill vacancies which may occur from any cause, provided that for the year 1883, the person elected in the first ward shall hold his office but one year, the person elected in the second ward shall hold his office two years, the person elected in the third ward shall hold office three years, and each person elected thereafter shall hold office for the term of three years.

Duties of board of education.

SECTION 9. Section 3, of chapter 11, of the general laws of 1878, is hereby amended so as to read as follows: Section 3. The board of education shall, at the first regular meeting in May of each year, elect one of its members president, who shall preside at all meetings of the board, and preserve order and decorum thereat, and decide all questions of order, subject to appeal to the board. He shall countersign all orders drawn by the secretary for the payment of teachers' and janitors' wages, and all other incidental and necessary expenses of said board of education, and in all suits brought by or against the school district, he shall appear in behalf of the district, unless some other provision is made by the board of education. He shall declare all votes taken on questions coming before the board; provided, that on all questions requiring appropriations of money or the adoption of the new text books, the vote shall be taken by ayes and noes, and on any other questions the ayes and noes shall be called when any member shall request it; provided further, that in the absence of the president, the board shall elect a president *pro tempore*.

Dredging of rivers, etc.

SECTION 10. Section 3, of chapter 13, of the general laws of 1878, is hereby amended so as to read as follows: Section 3. Said city council shall have power to provide, by ordinance, for dredging East and West rivers, and to require of

the owners of lots or lands abutting on said rivers to dredge the same opposite such lots to the width of twenty (20) feet, in such manner and to such depth and within such time as the council may direct; and the earth excavated from the bed of said rivers may be deposited upon such lot or lots or be otherwise disposed of. And if the owner or owners of such lot or lots shall refuse or neglect, within the time specified by said council, to do such dredging, the common council may let such dredging by contract to the lowest responsible bidder for the same; but the common council may, at the same time, cause the rivers to be dredged to the same depth in front of streets and other places in said rivers where such dredging shall be chargeable against the city, contiguous to the points required to be dredged by such ordinance within the limits prescribed in such ordinance. And when the dredging in front of such lots shall be completed according to such contract and accepted by the council, the expense of such dredging shall be charged and levied against the particular lots of land in front of which such dredging has been done, and the mayor and city clerk shall issue a certificate to such contractor, as provided in section 6, of chapter 6, of this act, for the contract price of the work, which certificate shall, from time to time, be a lien upon said lot or lots the same as other special assessments, and shall be collected in the same manner as the taxes assessed on real estate are collected; but no part of the expenses of any such dredging shall be paid by the city. The city clerk shall, at the time of making out the annual tax roll of the city of Two Rivers, add to the said tax roll in a separate column, as a special assessment opposite to the lots to be charged therewith, all outstanding certificates issued by the mayor and city clerk for the special improvements set forth in this section 3, and the same shall be collected by the city treasurer as other taxes upon real estate are collected.

SECTION 11. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 86, A.] [Published April 13, 1883.]

CHAPTER 312.

AN ACT to amend chapter 271, of the laws of Wisconsin, for the year 1882, entitled "an act to incorporate the city of Neillsville."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Elective officers.

SECTION 1. Section 2, of chapter 3, of chapter 271, of the laws of Wisconsin, for the year 1882, is hereby amended so as to read as follows: Section 2. The elective officers of said city shall be a mayor, treasurer, city clerk, one assessor, two justices of the peace and one police justice, one alderman to represent each ward, one supervisor to represent each ward on the county board. The said alderman and supervisor must reside in the ward they represent and be a freeholder in the city. The mayor, treasurer, city clerk, assessor, aldermen and supervisors shall hold their offices for one year, and the justices of the peace and the police justice shall hold their offices two years and until their successors are elected and qualified. All other officers and agents necessary to the proper discharge of the duties herein conferred, and to properly and fully do the business of the corporation, shall be appointed at the first meeting of the common council in each year or soon thereafter as may be. The common council shall have power to remove any person appointed by it for due cause, upon a majority vote of all the aldermen, first giving the person seven days' notice of the reasons for his removal and a fair and just hearing and may be assisted by counsel.

Elections, how conducted.

SECTION 2. Section 3, of chapter 3, of chapter 271, of the laws of Wisconsin for the year 1882, is hereby amended so as to read as follows: Section 3. All elections shall be by ballot, and a plurality shall in all cases decide an election. When two or more candidates for an elective office shall receive an equal number of votes for the same office, it shall be determined by lot in the presence of the inspectors, and at such time and in such manner as the inspectors shall direct. There shall be but one voting precinct (unless otherwise ordered and determined by the common council, at least ten days before the annual election), and all votes for elective officers shall be upon one ballot, and shall be deposited in the ballot box for the ward in

which the person offering to vote resides, which box shall have printed or painted thereon the number of the ward for which such ballot box is used.

Vacancies, how filled.

SECTION 3. When a vacancy occurs in the office of police justice, it shall be filled at the next annual charter election. In case of a vacancy a temporary appointment until filled by election may be made by the common council. He shall have the same powers, authority and jurisdiction within the city as is now or may hereafter be conferred on justices of the peace, and shall have jurisdiction of all violation or offenses against the provisions of this charter and the ordinances, by-laws and police regulations of the common council or board of health of said city. In all actions and proceedings before said police justice other than those arising for violation of city ordinances or under this charter, the forms of action, modes of procedure, including process, pleadings, trials, judgments and appeals, shall, as near as may be, be the same as in justice courts are provided by law. In cases of contempt, the police justice shall have the same powers and authority as justices of the peace, except that the punishment may be by fine not exceeding one hundred dollars ($100), or by imprisonment in the jail of Clark county or the city jail not exceeding sixty days. He shall have power and authority to issue and make all orders or process in his discretion necessary to fully carry out his authority and power, and for the enforcement of all judgments or orders made in any action or proceeding had before him, and to fully enforce the city ordinances or to prevent any violation or threatened violation thereof, or any part thereof, and to punish for any disobedience thereof, as for contempt. He shall be entitled to receive for his services the same compensation in fees as is allowed by law for similar services to other officers or persons and such further compensation as the common council may allow and prescribe. In case of his absence, inability to act, or sickness, in cases arising for violation of this charter or city ordinances, upon request of the police justice, any court commissioner of Clark county, or any justice of the peace within the city, may hold court and act for the police justice and shall have the same power and authority as is conferred

upon such police justice while so acting or holding court. In no case or proceeding for violation of this charter or any ordinances, by-laws, rules and regulations shall there be any change of venue allowed from such police justice or person acting in his stead, and the city may, in any action in which it is a party or interested, appeal to the circuit court and to the supreme court. The court of said police justice in actions wherein the city is a party or interested shall be deemed to be open for the transaction of business each day, from nine o'clock A. M. until twelve o'clock M., and from two o'clock P. M. until five o'clock P. M.

Police justice and justices of peace, when to qualify.

SECTION 4. The police justice and justices of the peace elected under this charter shall each, within ten days after election, qualify in the same manner as justices of the peace are required to do under the general law, except that the bonds shall be approved by the mayor of the city, and shall account for and pay over to the treasurer of said city all fines and penalties collected by him and belonging to said city.

Duties of same.

SECTION 5. The justices of the peace elected under this act shall have the same and equal jurisdiction and perform all and like duties of justice of the peace as provided by the general laws of this state. In case of a vacancy a temporary appointment, until filled by election, may be made by the common council.

Shall not work incompetency.

SECTION 6. No person shall be an incompetent judge, witness, justice or juror in any proceeding or action in which the city shall be a party in interest by reason of being an inhabitant or taxpayer in said city.

Actions to be brought in the corporate name of city.

SECTION 7. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, resolutions, police or health regulations of said city, or to enforce the same, or to prevent any violation of the same or any action in relation thereto, shall be brought in the corporate name of the city, and the net proceeds of all fines, penalties or forfeitures recovered shall be paid into the city treasury for its use and benefit, and no witness or juror subpœnaed or summoned on the part of the city shall be entitled to demand their fees in advance, but shall attend the same as if the fees were paid or tendered in advance.

Punishments.

SECTION 8. In all cases not specially provided for in this act, or any ordinance, by-law, rule or

regulation of said city, any person convicted under their provisions shall be punished by a fine of not more than two hundred dollars ($200) besides costs of suit, and in default of immediate payment, be committed to the common jail of Clark county, or the city jail, not to exceed ninety days, which imprisonment shall be limited by the court.

May offer a reward.

SECTION 9. Whenever any grave or heinous crime shall have been committed in said city, the mayor, with the concurrence of the common council, may offer a reward for the arrest and conviction, or either, of the perpetrators of such offense, not to exceed in any one case five hundred dollars ($500).

Who shall constitute the common council.

SECTION 10. Sections 2, 4, 9 and 12, of chapter 4, of chapter 271, of the laws of Wisconsin for the year 1882, are hereby amended, so that said several sections, when so amended, shall read as follows: Section 2. The mayor, aldermen and city clerk shall constitute the common council, and the style of ordinance shall be "The common council of the city of Neillsville do ordain—." The common council shall meet and organize on or before the second Tuesday in May of each year, or as soon thereafter as may be. A majority of the common council shall constitute a quorum, and in the absence of the mayor, may appoint one of the number acting mayor, and who shall have the same authority as the mayor while so acting. Section 4. The common council shall have the control and management of the finances, and of all the property of the city, and shall likewise, in addition to the powers herein vested in it, have full power to make, enact, ordain, establish, publish, enforce, alter, modify, amend and repeal all such ordinances, rules and by-laws for the government and good order of the city, for the suppression of vice and immorality, for the prevention of fires, and for the benefit of trade, commerce and health, and protection of public and private property, and the lives and persons of individuals, as it shall deem expedient, declaring and imposing penalties, and to enforce the same against any and all persons who may violate any of the provisions of such ordinances, rules or by-laws; and such ordinances, rules and by-laws are hereby declared to be and have the force of laws; provided, that they be not repugnant to the constitution of the United States or of this state, and shall have

Common council shall have control of finances.

special authority by ordinances, resolutions or by-laws:

1st. To license, regulate and prohibit the exhibition of common showmen, or shows of any kind, or the exhibition of caravans, circuses, theatrical performances, or concerts, and the use of billiard tables, bowling saloons, and to provide for the abatement of and removal of all nuisances under the ordinances or at common law, and to regulate groceries, taverns, victualing houses, and the persons vending or dealing in spirituous, vinous or fermented liquors, and revoke their licenses for a violation thereof. Shows and showmen, etc.

2d. To restrain, and prohibit all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other game of chance, for the purpose of gaming in said city, and to restrain any person from vending, giving or dealing in spirituous, vinous or fermented liquors, unless duly licensed by the common council. Gambling and fraudulent devices.

3d. To prevent any riots, noise, disturbances, or disorderly assemblages, suppress and restrain disorderly houses or groceries, and houses of ill-fame, and to authorize the destruction of all instruments, thing, contrivance or scheme used or can be used, for the purpose of gaming and lotteries, and provide for the search and seizure of such things. Riots, etc.

4th. To compel the owner or occupant of any grocery, cellar, tallow-chandler shop, soap factory, tannery, stable, barn, privy, sewer or other unwholesome or nauseous house or place, to cleanse, remove, or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of the city. Unwholesome places.

5th. To direct the location and management of slaughter houses and markets, and to prevent the erection of, or the use and occupation of the same, when the offal or filth therefrom may endanger the health of the inhabitants of the city. Slaughter houses.

6th To prevent the encumbering of the streets, sidewalks, alleys or public grounds with any material or substance whatever, and to require the removal of snow and other substances by the owners of such sidewalks. Encumbering of streets.

7th. To prevent horse racing, and regulate the rate of speed persons may ride or drive animals Horse racing, bathing, etc.

in the streets, and to regulate the places of bathing in the waters within the limits of said corporation.

Public pounds. 8th. To build and maintain a public pound, to restrain the running at large of horses, cattle, swine, sheep, poultry and geese, and to authorize the distraining, impounding and sale of the same. Also, may provide a penalty for allowing the same to run at large within the city, upon the owner or keeper or person having the care or custody thereof, and it may adopt either or both modes to prevent the running of said animals, poultry and geese at large.

Dogs. 9th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to an ordinance.

Putrid carcasses. 10th. To prevent any person from burying, depositing, or having, within said city, or place adjacent to said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have on his premises any such substances, or putrid or unsound beef, pork, fish, hides or skins of any kind, or on default, to authorize the removal thereof by some competent officer at the expense of such person or persons.

Immoderate driving. 11th. To prevent all persons from riding, driving or leading any horse, mule or other animal on the sidewalks in said city, or in any way doing damage to said sidewalks.

Shooting of firearms. 12th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of fireworks in any situation, which may be considered by the council dangerous to the city or any property therein, or annoying to the citizens thereof.

Restrain drunkards. 13th. To restrain drunkards, immoderate drinking or obscenity, or the use of profane, obscene, indecent, vulgar language in the streets or public places, and to provide for arresting, removing and punishing any person or persons who may be guilty of the same.

Infectious diseases. 14th. To regulate, prevent and control the landing of persons from cars and stages, wherein any contagious or infectious diseases or disorders exist and to make such disposition of such persons as to preserve the health of said city.

15th. To provide by ordinance for a standard

of weights and measures, and to punish for the use of false weights and measures. Weights and measures.

16th. To regulate the place and manner of weighing and selling hay, measuring and selling fuel, and other materials or articles usually sold at markets or upon the streets. Hay and fuel.

17th. To license and regulate butcher shops, stalls and stands for the sale of game, poultry, butchers' meats, butter, eggs, fish, and other provisions. Butcher shops.

18th. To regulate the time and in what manner, places where intoxicating liquors are sold or kept shall be opened, and to prohibit the keeping of such places opened or having the same opened on such times, or on Sunday or election days, and at such other times as it may deem necessary, and prescribe a penalty for any violation thereof, and may provide for the revoking of any licenses granted by it for any violation in addition to such penalty, and by whom and in what manner may be revoked. Sale of intoxicating liquors.

19th. To provide for the seizure and forfeiture of any article or thing whatever, sold, or offered for sale, or kept for sale, or used in any manner whatever in violation of any ordinance, and to provide for the search for such articles and things, and how they may be proceeded against. Contraband articles.

20th. To establish and regulate boards of health, provide and maintain hospitals, pest houses and cemetery grounds, and to regulate the use thereof, and the burial of the dead and the returns of the bills of mortality, and to exempt hospitals, pest houses and burial grounds from taxation; and the city may purchase and hold, ornament and maintain and protect such grounds, within or without the limits of the city, and when located without the city limits, may punish persons for the violation of ordinances or rules in regard thereto, in the same manner as though such grounds were located within the city limits, and they may by deed sell lots to persons for burial purposes therein. Boards of health.

21st. To license and regulate or restrain runners and solicitors for cars, stages, public houses, or any other establishment whatever; also drays, carts, hacks, omnibuses or other public conveyances. Runners and solicitors.

22d. To purchase, hold, build, maintain and regulate a city jail or lock-up for the confinement City jail or lock-up.

or punishment of delinquents or offenders against any of the state laws, or ordinances, and for the detention of suspected persons and tramps, and to hold, purchase, rent or lease grounds or lands for the use of the city, and to build, maintain or repair suitable buildings thereon for the use of the city.

Public markets. 23d. Establish public markets, or places where merchandise, commodities and other articles may be sold or kept for sale, and make rules and regulations for the government of the same, and to restrain all persons from interrupting or interfering with the due observance of such rules, regulations or ordinances.

Auctions. 24th. To regulate the time, place and manner of holding public auctions or vendues.

Monuments. 25th. To protect trees and monuments, parks, sidewalks, crosswalks, streets, public buildings, cemetery grounds, and insure the same.

Public wells. 26th. To make and regulate the use of public wells, cisterns, water works and reservoirs, and protect the same.

Lamps. 27th. To erect lamp posts and lamps, and provide for the lighting of any portion of the city, or streets thereof, by gas, or otherwise, and protect the same from injury or being in any manner interfered with.

Numbering lots and blocks. 28th. To renumber the lots and blocks of the city, or any part thereof, and to cause a revised and consolidated plat of the same to be recorded in the office of the register of deeds, and to establish a monument or corner from which all measurements can be taken, which, after being established, shall not be altered or changed in any manner whatever.

Sale and licensing of malt liquors, etc. 29th. To exercise such powers as it may deem necessary in respect to prohibiting or licensing the manufacturing and the sale of malt, ardent or intoxicating liquors and drinks and prescribe the license fee to be paid, which shall not be less than that provided by the revised statutes in any case, and for the manufacturing of such liquors such fees or license as they shall decide upon or adopt by ordinance, which shall not be less than twenty-five dollars ($25).

Ornamental shade trees. 30th. It shall have power and authority to require the owner or occupants of any lot or grounds in the city to set out and maintain ornamental and shade trees in the street or streets fronting the same or along the side thereof, and

prescribe the kind and quality to be used, and in default thereof to cause the same to be done, and to levy a special tax upon the lot or grounds to pay the expense, and may provide for the removal of any trees set out or maintained contrary to the provisions of any ordinance, at the expense of the lot owner, which may be entered against the lot as a special tax, and may also provide a penalty for any violation thereof.

Cleaning and repairing streets.

31st. To make, open, keep in repair, grade, improve, lay out, alter, widen, vacate, discontinue, renumber, rename streets, lanes, alleys, sewers, bridges, crosswalks, culverts, public grounds and sidewalks, and to keep them free from incumbrances, and to protect them from injury, and to provide for the sprinkling or watering of such streets as it may deem necessary.

Waters in city.

32d. The common council shall have jurisdiction over the entire waters bordering on the city, or the streams, creeks, or waters within the city, so as to prevent any deterioration of the waters, or any nuisance being cast therein by which the health of the inhabitants of the city or the purity of the water shall be impaired.

Breweries, etc.

33d. To direct the location, and regulate and license breweries, tanneries or packing houses.

Arrest of persons violating any ordinance.

34th. To provide for the arresting, removing and detention, and punishing any person or persons who may violate the provisions of any ordinance; and to establish by ordinance the mode of procedure and the forms to be used in proceedings and the time and in what manner persons arrested shall be allowed bail for their appearance, and what it shall be sufficient to allege and prove in order to make out a *prima facie* case of the violation of any ordinance, and may make ordinances upon any other matter, subject or thing that the legislature can confer authority upon them to do or restrain or prevent the doing thereof, as the common council shall deem expedient, and as though such authority was expressly herein enumerated and set forth, not inconsistent with the constitution of the United States or this state, provided, however, that the penalty or fine for the violation of any ordinance or by-law shall not be less than one dollar ($1) nor more than three hundred dollars ($300) in any case besides the costs and disbursements of suit in all cases, and in default of immediate payment of such penalty or

fine, imprisonment imposed shall not exceed nine months in the city jail or lock up or county jail of Clark county.

To enforce ordinances. 35th. To enforce all ordinances and by-laws against any and all persons, corporations or companies who may violate or threaten to violate any of the provisions of such ordinances or by-laws by any process or proceedings known or established, or that may be established, and all courts of this state shall take judicial notice of any and all ordinances or by-laws; and all ordinances published shall be taken, deemed and held to be within the authority of the common council to make necessary and reasonable, if not inconsistent with the constitution of the state or United States.

Relief of poor. 36th. The mayor, or any alderman of said city may provide for the immediate relief of any poor person or persons within the city in case the county of Clark shall refuse or neglect to properly provide for such person or persons, and the expense therefor to be paid from the general fund of said city, and said city to be reimbursed therefor by said Clark county.

Licenses. 37th. All licenses for the sale and manufacture of intoxicating liquors or drinks shall remain in force only for the residue of the term of office of the persons who constitute the common council granting such licenses, and no longer.

Regulate speed of engines. 38th. To regulate the running of engines and cars and the rate of speed at which the same may be run in said city.

Bells, etc. 39th. To regulate, control or prohibit the use of bells or steam whistles, or any other thing used for such purposes. Section 9. On receipt of such application, the common council, if it shall deem the building of such sidewalk necessary or expedient, shall prescribe the manner of its construction and the material of which the same shall be composed, and shall direct the street commissioner to notify the owners of any lot, piece or tract of land, along the line of such sidewalk and bounded thereby, by delivering to or leaving at the residence of each such person, if residing within the city, a written or printed notice, requiring such person therein named to build such sidewalk to the approval of the street commissioner, and in the manner directed by the common council, along the line of the lot or land so bounded, within thirty days, and in case the owner is not a

resident of the city, or is a corporation or company, or society of persons that is liable or subject to build such sidewalk, the notice may be served upon any agent or officer of such person or corporation, company or society of persons or person having charge of such property within the city, and in case there is no such person or agent, or officer residing within the city, such notice may be served by delivering the same to such person, agent or officer if to be found, or in lieu of such personal service such notice may be posted in three public places in said city. Section 12. Whenever any sidewalk in said city shall, in the opinion of the common council, require repairing or rebuilding, or a new one established or built, the common council may, without a petition or request, direct the street commissioner to notify the owners of such sidewalk, lot or tract of land, to rebuild or build a new one in cases where there has not been one previously built, within twenty days, or to repair the same within twenty-four hours, as the case may be, which notice shall be given and served as provided in cases of petition for building sidewalks.

SECTION 11. Sections 2, 3, 16, 17 and 24, of chapter 5, are hereby amended so as to read as follows: Section 2. The common council shall, between the second Monday in May, and the first day of November, in each year, determine the amount of general tax necessary to be assessed and collected for the current year for corporate purposes, which shall, in no case, exceed seven (7) mills on the dollar of the assessed valuation of said city, except as hereinafter provided for in the levy and collection of special taxes. Section 3. The common council of said city shall have no power to borrow money, nor shall said city be liable to pay money borrowed on its account, or advanced on its behalf by any of its officers or other persons, nor shall any of its money or property be applied to any such purpose, nor shall the common council have power to issue any bonds or other evidence of debt payable at a day subsequent to the day of the issue thereof, nor shall the common council issue in any one year, orders upon the city treasurer greater in amount than the amount of taxes which may be levied and collected under this act for such year. Except that when it shall deem it necessary to build

Amended.

or repair bridges, crosswalks, buildings, parks, or to protect public property of the city, or to provide for other matters of necessity for the benefit of the city, a special tax may be levied or bonds issued, or orders or other evidence of indebtedness given for such purposes, not exceeding two thousand dollars ($2,000) in any one year. If a sum exceeding two thousand dollars ($2,000) may be required, such special tax may be voted by the qualified voters of the city, but no such vote shall be taken unless such special tax shall be first recommended by the common council, nor unless a majority of the votes cast at such election shall be in favor of such special tax, which ballots shall be written or printed with the words, "for loan," or "against loan," and be deposited in the ballot boxes as provided for at general elections, nor unless a notice of the same, specifying the purpose for which said tax is to be raised, and the time, which may be between the hours of 10 o'clock A. M. and 2 o'clock P. M., and place of voting, be published at least five days before the time set, and such election shall otherwise be conducted in the manner provided for municipal elections under this act. Section 16. The treasurer of said city shall receive all moneys which may or shall be collected for the use of the corporation by virtue of this act, or by virtue of any by-law or ordinance of the city, and give the persons paying the same his receipt therefor. He shall not pay out any moneys except upon the warrant of the common council, signed by the mayor and countersigned by the clerk. All such warrants shall set forth the amount to be paid and to whom payable. He shall keep a just and accurate account of all moneys and other things coming into his hands as treasurer, in a book to be provided by the city for that purpose, which book shall be and remain the property of the city. In said book he shall note the time when the persons from whom the amount of the several sums was received, and the source whence the said sums arose respectively, and in the same book he shall duly enter an account of all sums paid out, and said book shall at all reasonable times be opened to the inspection of the voters of said city, and the said treasurer shall annually on the first Monday in May, and as often as the common council shall require, render to it a minute

account of all his receipts and disbursements, and the said treasurer shall be collector of taxes within the corporation, and he shall possess all the powers and perform the duties as such collector as is or may hereafter be conferred upon town treasurers, and as the common council may confer or direct, and perform such other duties as the common council may direct. He shall receive the same compensation as town treasurers for his services, unless otherwise provided for by the common council. Section 17. The assessor shall assess all the property in said city and shall perform all the duties and in the same manner as required of town assessors, unless otherwise provided for by the common council, and shall receive such compensation as the common council may direct, not to exceed two and one-half dollars ($2.50) per day for actual services rendered. Section 24. It shall be the duty of the street commissioner to report to the common council in writing, when required, the amount of money expended in each ward separately, and also the amount expended on the streets running between and dividing the three wards, and shall, on the first Monday in May of each year, report in writing to the common council the total amount of money expended upon the streets, alleys or lanes, crosswalks, bridges, etc.; also the amount of poll tax collected by him.

Printing.

SECTION 12. The common council shall annually provide that all printing authorized or required by it to be done for its use or for the city shall be let by contract to the lowest bidder for the term of one year, but no bid therefor shall be considered unless made by the publisher of some newspaper published in the city of Neillsville, unless the bids of such publishers shall be higher than the rates of legal advertising as fixed by law, or unless such publishers shall fail to bid. All ordinances and other proceedings required by this act or by the laws or ordinaces of the common council, to be published shall be published in the newspaper selected under the provisions of this section. And the printer of said newspaper shall, either in person or by his foreman, file with the clerk of the city his or their affidavits of the length of time said ordinance, by-law or proceeding has been published; and such affidavit shall be *prima facie* evidence of the publication thereof.

SECTION 13. All acts or parts of acts in conflict

Repealed.

with, or in any way or manner contravening any of the provisions of this act, are hereby repealed.

SECTION 14. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 266, A.] [Published April 16, 1883.]

CHAPTER 323.

AN ACT to amend the charter of the city of Shawano.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment.

SECTION 1. Section four (4), of chapter one (1), of chapter 278, laws of 1874, entitled "an act to incorporate the city of Shawano," is hereby amended by inserting after the words, "police justice," in tenth (10th) line, the words, one assessor and one street commissioner, and by striking out of the twelfth (12th) line the words, and one assessor for each ward, so that said section, when so amended, shall read as follows: Section 4. The annual election for ward and city officers shall be held on the first Tuesday in April, in each year, at such place in each ward as the common council shall designate; and the polls shall be kept open from 9 o'clock in the forenoon, till sundown, and ten days' previous notice shall be given by the common council of the time and place of holding such elections, and of city and ward officers to be elected. The elective officers of said city shall be a mayor, a clerk, a treasurer, a police justice, one assessor, and one street commissioner for the city at large, three aldermen, one justice of the peace, and one constable for each ward. The mayor, treasurer, police justice, assessor and street commissioner shall be qualified voters and freeholders in the said city and the ward officers shall be qualified voters and freeholders in the ward for which they were elected. All other officers necessary for the proper management of the affairs of the said city shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless otherwise provided, hold their respective offices for one year, and until their successors are elected and qualified; provided, however, the common

council shall have power, for due cause, to expel any of its own number, and to remove from office any officer or agent under the city government, due notice being first given to the officer complained of. The justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The mayor shall have power to suspend any police officer or watchman appointed by the council when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill vacancies thus created, for the time being.

Amendment.

SECTION 2. Section five (5), of chapter three (3), of said chapter 278, is hereby amended by striking out of first line of said section the word "treasurer," and insert in place thereof the word supervisors, and by striking out the letter "s," where it occurs at the end of the word "assessors," where it occurs in the second line of said section, so that said section when so amended shall read as follows: Section 5. The mayor, city clerk, city supervisors, and the assessor, shall constitute the city board of equalization, and shall meet at the office of the city clerk on the first Monday of July each and every year, at nine o'clock in the forenoon, and shall proceed in all respects as town boards are by law required to proceed as far as the same is applicable, reviewing, correcting and equalizing the assessment rolls in the several wards in the city. The mayor shall be president of the board of equalization, and the city clerk, the clerk thereof.

Amendment.

SECTION 3. Section five (5), of chapter five (5), of said chapter 278, is hereby amended by adding thereto at the end of said section: But no sidewalks shall be built in front of any piece or parcel of land which is not laid out into and recorded as city lots, and which is exclusively used for farming purposes, except they are built at the expense of the city.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 3, 1883.

[No. 173, S.] [Published April 18, 1883.]

CHAPTER 339.

AN ACT to amend the charter of the city of La Crosse.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment, new sections added.

SECTION 1. The southeast quarter (¼) of section twenty (20), the southwest quarter (¼) of section twenty-one (21), the west half (½) of section twenty-eight (28), the east half (½) of section twenty-nine (29), and all that portion of the southeast quarter (¼) of section twenty-one (21), of the east half (½) of section twenty-eight (28), and of the northeast quarter (¼) of section thirty-three (33), all in township sixteen (16), north of range seven (7) west, which lies west of a line commencing at a point sixty rods north and forty rods east from the center of the said section thirty-three (33), and running northwardly to a point in the north line of said section twenty-eight (28), on the east bank of La Crosse river, fifty rods east from the north quarter (¼) post of said section twenty-eight, (28) and thence northwardly along the east bank of La Crosse river to the east and west center line of said section twenty-one (21), on the east bank of La Crosse river, are hereby attached to and made a part of the city of La Crosse. And the same, except the aforementioned portion of section thirty-three (33), shall be and become a part of the fifth ward of the city of La Crosse. And such excepted and afore-described portion of said section thirty-three (33), shall be and become a part of the first ward of the city of La Crosse.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved April 3, 1883.

[No. 121, S.] [Published April 7, 1883.]

CHAPTER 341.

AN ACT to incorporate the city of Sturgeon Bay.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Corporate name.

SECTION 1. All that district of country in the county of Door, hereinafter described, and the people inhabiting the same, from and after the

second Tuesday in April, 1883, shall be a city by the name of Sturgeon Bay; and such city shall be a municipal corporation, and in and by the name aforesaid shall have perpetual succession, and the power to sue and be sued, to contract and be contracted with, to purchase, take, hold, occupy and convey real and personal property, to have a common seal, and change or renew the same at pleasure, and shall have generally the powers of a municipal corporation at common law, and in addition thereto, the powers herein specifically granted.

Boundaries.

SECTION 2. Said city shall embrace the following described territory: Beginning at a point in the waters of Sturgeon Bay, on the line between sections eight (8) and nine (9), in township twenty-seven (27) north, of range twenty-six (26) east, produced south, equi-distant from the opposite shores of said bay, and running thence north to the shore of said bay, and thence north on the line between sections eight (8) and nine (9), and four (4) and five (5), in said township, one hundred and forty-two and seventy-six hundredths chains, to the north line of said township; thence west along the north line of said township one hundred and fourteen and fifty-one hundredths chains to the shore of said bay; and thence west on the same line produced to a point in the waters of said bay equi-distant from the opposite shores thereof, and thence southeasterly on a line equi-distant from the opposite shores of said bay to the place of beginning.

Ward boundaries.

SECTION 3. Said city shall be divided into wards as follows: All that part of said city lying north and west of a line beginning at a point on the southwesterly boundary of said city, on the middle line of St. John's street produced, and running thence north fifty-six degrees (56) east, to where the middle line of said street meets the shore of Sturgeon Bay; thence north fifty six degrees (56) east along the middle line of said street to a point one thousand four hundred and fifty-eight feet (1,458) north fifty-six degrees (56) east of the easterly line of Cedar street, in the middle of Grant street, so called; thence north thirty-four degrees (34) west, along the middle of said Grant street three hundred and sixty feet (360) to the middle of the highway known as the Egg Harbor road, and thence northeasterly along the middle

of said highway, to the boundary line of said city, shall be and constitute the First ward. All that part of said city lying south and east of the First ward and north and west of a line beginning at a point on the southwesterly boundary of said city on the middle line of Pine street produced, and running thence north fifty-six degrees (56) east to where the middle line of Pine street meets the shore of Sturgeon Bay; thence northeasterly along the middle line of Pine street to the middle of Church street; thence northwesterly along the middle line of Church street to the line between sections five (5) and eight (8), and thence east on the section line to the eastern boundary of said city, shall be and constitute the Second ward. And all that part of said city lying south and east of the Second ward, shall be and constitute the Third ward.

Light-house in first ward.

SECTION 4. For all the purposes of this act the light-house now erected in the waters of Sturgeon Bay, shall be considered and held to be in the first ward of said city.

OFFICERS AND ELECTIONS.

Elective and appointive officers.

SECTION 5. The elective officers of said city shall be a mayor, clerk, assessor, treasurer, marshal, attorney, and three justices of the peace, one of which shall be elected as and called police justice, from the city at large, and two aldermen and one supervisor from each ward. The mayor and aldermen shall constitute the city council. The council shall appoint a superintendent of schools and a street commissioner, and may appoint a surveyor, pound master, policemen, fire wardens, night watchmen, and such other officers or agents as may be necessary or proper to carry into effect the provisions of this act, or of any ordinance made in pursuance thereof.

Who are eligible.

SECTION 6. All officers elected under this act shall be electors and freeholders of the city, and ward officers shall be electors of the ward for which they are elected or appointed. No person shall be appointed to any office who is not an elector of the city. The treasurer of the city shall be ineligible to said office for the next succeeding term.

Annual election.

SECTION 7. The election of city and ward officers shall be held on the third Tuesday of April, 1883, and annually on the first Tuesday of April

thereafter, at such place as the council shall provide; the poll shall be opened at nine o'clock A. M., and closed at five o'clock P. M., and may be closed for one hour at noon. Ten days' notice of the election shall be given by publication in any newspaper published in the city, but a failure to give such notice shall in no wise affect the validity of the election.

Inspectors of election.

SECTION 8. Any three members of the council theretofore designated by the council, or if none be so designated, any three members present, shall constitute a board of inspectors of any election held in said city, and may choose one of their number to act as chairman. In case three members be not present at the time for opening the polls, the board may be filled by the election thereto of one or more electors of said city by the voters then present. The city clerk shall act as clerk of the election, and in his absence the board may appoint some suitable person to act as clerk; and the inspectors and clerk shall take the oath or affirmation required of inspectors and clerks of elections by the laws of this state.

Elections by ballot.

SECTION 9. At all elections for ward and city officers there shall be three ballot boxes, one for each ward with the number of the ward plainly marked thereon. The votes of the electors of each ward shall be deposited in the ballot box for such ward, and a separate poll list shall be kept of the electors in each ward. All elections shall be by ballot, and the names of all persons voted for by each elector shall be on one ballot. A plurality of votes shall be sufficient to elect; and in case two or more candidates receive the same number of votes for the same office, the election shall be determined by lot in the presence of the inspectors, at such time and in such manner as they shall direct.

Qualified electors.

SECTION 10. Any person entitled to vote for county and state officers, and who shall have had an actual residence in the city for thirty days next preceding the time of holding any election therein, shall be deemed a qualified elector of said city, and may vote as an elector of the ward in which he then resides.

Challenged votes.

SECTION 11. If any vote be challenged, or if any inspector shall have reason to believe that any person offering to vote does not possess the qualifications of an elector under this act, the in-

spectors shall ascertain and decide upon the qualifications of such person as an elector, in the manner prescribed by law for determining the qualifications of electors at general elections; and in addition thereto shall require proof of such person, that he has been ten days a resident of the city, as herein provided.

When polls are closed.

SECTION 12. When an election is closed the inspectors shall, forthwith and without adjournment, ascertain the result thereof, and shall make and sign a written statement, showing the whole number of votes given at such election for each office, and the number given for each and every candidate for such office; and they shall annex thereto their certificate that such statement is correct. Such statement, together with the poll lists kept at such election, and the oaths of the inspectors and clerks shall be forthwith delivered to the city clerk to be filed and preserved in his office.

Return of votes.

SECTION 13. After the ballots are counted and the result ascertained, all the ballots shall be at once returned to the ballot box from which they were taken, and the boxes shall be at once sealed up and delivered to the city clerk, and the ballots therein shall be preserved for at least three months.

Elections, how conducted.

SECTION 14. All elections under this act, when not herein otherwise provided, shall be held and conducted in the same manner as elections at annual town meetings are held and conducted under the laws of this state; and all laws of the state enacted to prevent and punish illegal voting or fraud, corruption or deceit at elections shall be construed and held to include and apply to elections under this act.

TERMS AND QUALIFICATIONS OF OFFICERS.

Terms of office.

SECTION 15. All elective officers except justices of the peace shall hold their offices for the term of one year, and until their successors are elected and qualified; justices of the peace shall hold for the term of two years, and until their successors are elected and qualified.

When term of office shall commence.

SECTION 16. The terms of all officers elected at the annual election shall begin on the first Tuesday thereafter, and they shall qualify on or before that day. Officers elected or appointed to fill vacancies shall qualify within five days after notice of their election or appointment, and shall hold only for the residue of the term. In case of

a vacancy in the first year of the term of a justice of the peace, and the vacancy filled by appointment, the appointee shall hold only until the next annual election, and until his successor is elected and qualified. Non-elective officers shall qualify within five days after notice of their appointment, and, except as herein otherwise provided, shall hold until the second Tuesday in April thereafter.

Notice to persons elected.

SECTION 17. If any person shall have voted at any election at which he has been elected to any office, he shall be deemed to have notice of his election. In case any person is elected to office at any election at which he did not vote, and in case of the appointment of any person to any office the clerk shall at once give notice to such person of his election or appointment, and such notice may be served by depositing the same in a sealed envelope, post-paid and properly addressed, in the postoffice in said city. He shall also file and preserve in his office a copy of such notice, with the proof of the time and manner of the service thereof indorsed thereon.

Shall take oath of office.

SECTION 18. All elective officers, except justices of the peace, shall, before entering on the duties of their office, take and file with the city clerk the oath of office prescribed by the constitution and laws of this state; and the assessor, treasurer, marshal, street commissioner, pound master and such other officers as the council may require, shall each, in addition thereto, execute to the city and file with the clerk a bond with two or more sufficient sureties, to be approved by the council, in such penal sum as the council may prescribe, conditioned for the faithful discharge of his official duties. The sureties in every such bond shall justify in the aggregate, in double the amount named in said bond, in unincumbered property in this state over and above debts, liabilities and exemptions. In case the council shall disapprove any such bond, the person executing the same shall file a new and satisfactory bond within five days after notice of such disapproval. The council may order any officer to furnish an additional bond, in such sum as it may prescribe, and in such case the officer shall furnish such additional bond within five days after the service on him, of a copy of such order. If the clerk shall be required to give bond the council may prescribe the depository thereof.

Qualification of justices.

SECTION 19. The justices of the peace shall qualify in the same manner as other justices of the peace; and the police justice shall in addition thereto execute to the city and file with the clerk, a bond with two or more sufficient sureties, to be approved by the council, and in such sum as the council shall prescribe, conditioned for the payment, in the manner required by law, of all moneys which shall come to his hands as such police justice, and for the faithful discharge of the duties of his office.

Shall not be accepted as surety.

SECTION 20. No member of the council shall be accepted as surety on any bond, undertaking or obligation executed to the city or in the performance of which the city is or may become interested.

First meeting of council.

SECTION 21. The council shall meet on the first Tuesday after the election in each year to approve or disapprove bonds, and take such measures as may be necessary to the proper qualification of the officers-elect. At such meeting, or on or before the second Tuesday thereafter, it shall elect, by ballot, one of its number president of the council.

Penal sum.

SECTION 22. When the council shall have fixed the penal sum or other requisite of the bond of any officer, such order shall continue in force until altered or abolished by the council.

VACANCIES AND HOW FILLED.

Resignations.

SECTION 23. All resignations of officers elected or appointed under this act, or by or under any ordinance made in pursuance thereof, shall be made to the city council.

What is deemed vacating an office.

SECTION 24. If any person elected or appointed to any office shall fail to qualify, or having qualified, shall accept and hold any other office inconsistent therewith, or when required shall fail to give additional security, or shall die, or resign, or be adjudged insane, or be convicted of a felony, or be permanently disabled, from the discharge of his duties, or be removed, or shall remove from the city, or from the ward for which he was elected or appointed, the office shall thereby become vacant, and the council shall so declare, and shall state the cause of such vacancy; and the vacancy shall be filled as herein provided.

Vacancy of mayor.

SECTION 25. Vacancies in the office of mayor shall be filled by election; but the council may,

in its discretion, refuse to order a special election for that purpose. The council may, by appointment, fill vacancies in any other office; all appointments by the council shall be by ballot.

Special elections.

SECTION 26. All special elections, for whatever purpose, shall be ordered by the council. Notice thereof shall be given as of annual elections, which shall specify clearly the purpose or purposes of such election. They shall be held and conducted, and the votes counted, and statement thereof made and filed, and the poll lists, oaths and ballots preserved in the same manner as at annual elections.

POWERS AND DUTIES OF OFFICERS.

Duties and powers of mayor.

SECTION 27. The mayor shall preside at all meetings of the council, but shall vote only in case of a tie. He shall, from time to time, lay before the council such information, and recommend such measures as he may deem advantageous to the city. He shall be chief executive officer of the city, and shall take care that this act and the ordinances of the city be duly observed and enforced. In case of a riot, fire or any apparent necessity, he may appoint as many special policemen, for and during such exigency, as he may deem necessary. In case of riot, or other disorder, requiring the civil power for its suppression, the mayor, if present, shall direct the proceedings. He may command all citizens to his assistance, and any person refusing to obey his lawful command, shall forfeit a sum not exceeding fifty dollars ($50), and shall be liable to immediate arrest therefor. He shall sign all orders legally drawn on the treasury, and shall perform such other duties as are herein prescribed, or as may be lawfully required of him by the ordinances of said city, or by the vote or order of the council.

President.

SECTION 28. In case of vacancy in the office of mayor, the president of the council shall perform the duties of mayor until the vacancy be filled; in case of the temporary absence or disability of the mayor, the president shall perform the duties of mayor for the time being. In case of the absence of both mayor and president from any council meeting, they may designate one of their number to act as president *pro tem.*, whose duty,

as such, shall be simply to act as president of such meeting. The president or president *pro tem.* may vote on all questions coming before the council. When acting officially they shall be styled "acting mayor," and within scope of their powers their acts shall have the same force and validity as if done by the mayor.

Clerk.

SECTION 29. The city clerk shall be clerk of the council; he shall attend its meetings, and shall take, sign and record full and accurate minutes of all its proceedings. He shall keep a full and complete record of the finances of the city; he shall sign and keep a record of all ordinances and by-laws, and shall cause the same to be published and proof thereof preserved, as herein provided, or as directed by the council. He shall keep a record of all licenses, commissions or permits granted or authorized by the council showing to whom granted, for how long and for what purpose. He shall give notice, as herein required, of all annual or special elections, and shall keep a true record of the proceedings thereat. He shall draw all orders on the treasury and sign the same, and no order shall be a legal voucher or demand against the city unless so signed. He shall certify to the county clerk within ten (10) days after any election the name and address of the treasurer, assessor, clerk and each supervisor elected thereat, and promptly notify to him any subsequent change in any such office. Whenever the council shall appoint a treasurer, he shall at once give notice thereof to the county treasurer. He shall transmit forthwith to the clerk of the circuit court notice of the election, appointment or resignation of justices of the peace, giving the term for which elected or appointed, and, when to fill a vacancy, the name of the last incumbent. He shall perform such duties as are required of town clerks by the general laws of the state in relation to the assessment and collection of taxes; and he shall perform such other duties as are herein or by law prescribed, or as may be lawfully required of him by the ordinances of the city, or by the vote or order of the council. He shall have the custody of the corporate seal, and of all records, books and papers belonging to, or required to be kept or filed in his office; and all such records books, and papers, and transcripts therefrom duly certified by

him, shall be *prima facie* evidence in all courts and places of the facts therein stated.

Assessor.

SECTION 30. The assessor shall assess all the taxable property in said city, as required by law, and without regard to ward boundaries; and shall complete his assessment roll and lay it before the board of review, as required by the general laws of the state, and shall perform such other duties as are herein, or by law or ordinance required.

Board of review.

SECTION 31. The mayor, clerk and assessor shall constitute a board of review; and as such they shall perform the duties required of them by the general laws of the state.

Duties of city treasurer.

SECTION 32. The treasurer shall collect all general and special taxes and assessments levied on the real and personal property of the city, and shall make return of unpaid taxes, and in so doing shall proceed in all respects in the same manner, and shall have and exercise the same powers, and be governed by the same laws as treasurers of towns, unless herein otherwise prescribed. He shall retain, receive and take charge of all moneys belonging to the city, and shall keep an accurate and detailed account thereof, and of each fund separately, together with an account of all disbursements, in suitable books to be provided for that purpose. He shall disburse the funds of the city only on the written order of the mayor and the clerk, subscribed by them with their signatures. And he shall perform such other duties as are herein or by law prescribed, or as may be lawfully required of him by ordinance or by vote or order of the council.

Duties of marshal.

SECTION 33. The marshal shall be chief of police of the city, and subject to such rules as may be prescribed by ordinance for their government. The police of the city shall be under his direction and control. He shall suppress all riots and disturbances in the city, and shall arrest, with or without process, all persons engaged therein, or who shall be found in a state of intoxication, or in any manner disorderly, or violating any law of the state or any ordinance of the city, and take them before the police justice for trial. If it be on Sunday, or a legal holiday, or the person arrested be intoxicated, he may be detained in the watch house until a trial can be had. For the violation of this act, or of any ordinance, he may arrest without process within the limits of the

city, and with process he may pursue and arrest the offender anywhere in Door county. In the lawful exercise of his duties, he may command any elector of the county present to assist him therein, and any person so commanded, refusing or neglecting to render such assistance, shall forfeit a sum not exceeding twenty dollars ($20), and shall be liable to immediate arrest therefor. He shall execute all lawful written orders of the council, and shall possess the necessary powers therefor. In addition to the powers hereinbefore enumerated, he shall have the powers of a constable under the laws of the state, and may serve process directed to the sheriff or any constable of said county. Within the limits of the city, policemen and special policemen, while on duty, shall have the same powers as marshal.

City attorney.

SECTION 34. The city attorney shall prosecute or defend, on behalf of the city, all actions or proceedings in which the city is a party or interested. He shall give advice to the council and other officers of the city on all legal questions submitted to him pertaining to its official duties, and in which the city is interested. He may be required to draw all ordinances and by-laws ordered by the council, and all conveyances, contracts and other instruments necessary to the transaction of the business of the city; and he shall perform such other duties as are herein prescribed, or as may be lawfully required by ordinance, or by order or vote of the council.

Justices of peace—their powers and duties.

SECTION 35. The justices of the peace shall have the same powers and jurisdiction as other justices of the peace; and the police justice, in addition thereto, shall have exclusive jurisdiction of all actions and causes for the violation of this act, or of any ordinance, order or by-law of the city, made in pursuance hereof. In case of a vacancy in the office of police justice, or in case of the temporary absence or disability, the mayor shall, in writing, designate another justice of the peace of the city to perform his duties, who shall thereafter have the powers and perform the duties of police justice during the continuance of such vacancy, absence or disability. The police justice and any justice of the peace who may have acted as police justice, shall report and pay into the treasury quarterly, at the close of each calendar quarter, all moneys collected by him and belong-

ng to the city, which report shall be verified by his affidavit and filed with the city clerk.

Board of supervisors.

SECTION 36. The supervisors shall be members of the county board of supervisors; they shall represent their respective wards in such board, and shall have the same powers and be liable to the same duties as other members thereof.

Records to be presented annually.

SECTION 37. The treasurer, police justice, street commissioner, pound master and such other officers, agents and employes as the council may require, shall each annually, at the time herein specified and at any other time when required by the council, exhibit to the council his records, accounts, funds and vouchers for examination, and shall make and render to it such statements and reports as it may require.

Deeds.

SECTION 38. Every deed, bond, conveyance, contract, commission, license or other written instrument, directed or authorized by the council, shall be executed on the part of the city by the mayor and clerk and sealed with the corporate seal.

Duties of non-elective officers.

SECTION 39. Non-elective officers shall perform such duties and be under such obligations and shall receive such compensation as the council shall, from time to time, prescribe, order or direct.

Compensation.

SECTION 40. The mayor and aldermen shall receive no compensation, except for special services. The clerk, attorney and superintendent of schools shall be paid by salary. The marshal and police justice shall be entitled to charge such fees as constables and justices of the peace are allowed for similar services, and the marshal may, in addition thereto, be paid a salary. All salaries shall be payable quarterly. Except as herein provided, the council shall prescribe the compensation of the several officers, and the compensation of any officer shall not be changed during his term of office.

Penalty for failure to deliver.

SECTION 41. Every city officer shall deliver to his successor, when qualified, all money, records, books, papers and property, in his hands as such officer; and in case of vacancy, the clerk, unless otherwise provided by the council, shall demand and receive all such property and retain the same in his office or deliver the same to the person elected or appointed to fill such vacancy as the circumstances of the case shall require or the council direct.

Property of city.

SECTION 42. All maps, plans, diagrams, drawings, statements, certificates or estimates made by the surveyor, shall be the property of the city; they shall be authenticated in such manner as the council may require, and shall be filed and preserved in the clerk's office.

No officer to be interested in any job.

SECTION 43. No member of the council of said city shall be in any manner directly or indirectly interested in any contract or agreement for the performance of any work or the furnishing of any material for said city, except as herein otherwise provided; and in case of a violation of this section such officer shall forfeit not less than ten (10) nor more than two hundred dollars ($200).

THE CITY COUNCIL.

Powers vested.

SECTION 44. All powers of the city not specifically given to some other officer are hereby vested in the council.

Quorum.

SECTION 45. Any five members of the council shall constitute a quorum; but a less number may adjourn from time to time until a quorum be present.

Judge of election.

SECTION 46. The council shall be judge of the election and qualification of its members, and may prescribe the mode of procedure in case of a contest.

Regular meetings.

SECTION 47. The regular meetings of the common council shall be held at such place and times as may be prescribed by its by-laws. Special meetings, unless otherwise ordered, shall be held at the same place and may be called by the mayor or any two aldermen, in writing, filed with the clerk, who shall thereupon give at least one day's notice thereof to all other members of the council in the manner directed by the by-laws. All its meetings shall be open to the public.

Power to preserve order.

SECTION 48. The council shall have power to preserve order at its meetings, to compel the attendance of members and impose penalties for non-attendance; to appoint or authorize the mayor to appoint such committees as it may deem expedient; to prescribe the order and method of its proceedings, and to adopt such by-laws as may be necessary or proper to carry into effect the provisions of this section.

Motion to reconsider votes.

SECTION 49. No motion to reconsider any vote taken by the council at any other meeting shall be carried, nor shall any ordinance, order or by-

law be amended or repealed, except by a majority vote of all the members of the council, and the ayes and noes shall be taken on all such questions.

Keeping records.

SECTION 50. The council shall cause to be kept all the records herein provided for and such other records as it may deem necessary properly to preserve and exemplify the transactions of the city, or any of its officers or agents, and may prescribe or direct the form and manner of keeping any such records.

Meeting to settle accounts.

SECTION 51. The council shall meet on the last Tuesday in March in each year to examine, audit and adjust the accounts of the treasurer, police justice, street commissioner, pound master and of such other officers, agents and employes as shall be necessary to a full understanding of the finances of said city. And it may require any such officer, agent or employe to exhibit his accounts, funds and vouchers for such examination and to make such statements and reports as it may deem necessary; and it shall make a full record of all such adjustments and examinations. It may require any such officer, agent or employe to come before it and exhibit his accounts, funds and vouchers for examination, or make report of his doings, at any time when, in its judgment, the public interest shall require. In case of the refusal or neglect of any officer, agent or employe, to comply with any such request, or in case of a deficit in his accounts with the city, or in case of any misconduct on his part whereby loss, damage or injury has accrued, or may accrue to the city, it may institute and prosecute such actions and proceedings and take such measures as the exigencies of the case may seem to require.

Powers of council.

SECTION 52. The council shall also have power:

Special elections.

1. To call special elections for any purpose authorized by law.

Inspectors.

2. To designate three of its number to act as inspectors of any election held under this act.

Vacancies.

3. To fill all vacancies in office except in the office of mayor, and may appoint a clerk *pro tem.*

Appoint non-elective officers.

4. To appoint such non-elective officers as it may deem necessary, except as herein otherwise provided; such appointments may be made at such times as it deems proper.

Prescribe duties.

5. To prescribe the duties, powers and obligations of non-elective officers; and from time to

time to prescribe other and additional powers, duties and obligations, as it may think necessary or desirable.

Further duties. 6. To require, from time to time, other and further duties to be performed by any officer whose duties are herein prescribed.

Police. 7. To prescribe rules for the government and regulation of the police of the city.

Compensation of employes. 8. To fix the compensation of all officers, agents and employes of the city, when not herein otherwise provided.

Security. 9. To require at any time any officer under bond to the city, to give additional security for the performance of the duties of his office.

Removal from office. 10. To remove from office, by a two-thirds vote of all the members, any elective officer for any refusal or wilful neglect to perform the duties of his office, or for any wilful misconduct in office, giving to the accused a reasonable opportunity to be heard in his defense; and it may provide by its by-laws the mode of procedure in such case.

Non-elective officers. 11. To remove from office, by a majority vote of all the members, any non-elective officer, or any agent or employe for any act which it may deem official misconduct.

Dismiss non-elective officers. 12. To dismiss any non-elective officer, or any agent or employe, whenever, in its judgment, his services are no longer needed or desirable.

Hold real estate. 13. To purchase, take, hold and occupy, and sell and convey real and personal property on behalf of the city.

Seal. 14. To procure a common seal, and to change or renew the same at pleasure.

Buildings. 15. To purchase or erect and maintain the necessary buildings for the use of the city, and to make all necessary contracts and agreements therefor.

City elections, place for holding. 16. To provide a suitable place for holding the city elections, and the ballot boxes and furniture necessary therefor.

Stationery, etc. 17. To procure the necessary record books, blank books, stationery, furniture and other personal property, for the use of the city, its officers, agents or employes.

Publication of ordinances. 18. To provide for the publication of ordinances, by-laws and notices, and procure the necessary public printing.

Cemetery grounds. 19. To purchase and hold cemetery grounds,

and enclose, lay out and ornament the same, and sell and convey lots therein.

20. To purchase grounds for and establish public parks and walks, enclose, lay out, improve and ornament the same; to prevent the killing or worrying of animals and birds therein, and to prevent the incumbering or improper use thereof. Parks, etc.

21. To provide for and regulate the setting out of shade and ornamental trees in the streets, and in and around the cemeteries and public parks and walks of the city. Ornamental trees.

22. To erect lamps and regulate the lighting thereof, and provide for lighting the streets, public grounds and public buildings with gas or otherwise. Lamps and lighting.

23. To establish and change the grade of streets, alleys, sidewalks and crosswalks. Change names of streets.

24. To lay out, open, alter, widen, grade, pave, improve and keep in repair and vacate or discontinue streets, lanes and alleys. Repair of streets, etc.

25. To regulate the manner of using the streets and pavements, and protect the same from encroachment and injury. Streets and pavements.

26. To locate and construct gutters, drains and sewers, and to change, repair and reconstruct the same. Gutters and drains.

27. To make, alter, widen, repair, reconstruct, vacate or discontinue sidewalks and crosswalks. Sidewalks, etc.

28. To purchase plows, scrapers, spades, axes, bars and other necessary tools and implements for the use of the city. Implements for street use.

29. To establish a fire department; to determine the number which shall belong to each company; to appoint the officers and members thereof, and prescribe and regulate their powers and duties; and it may accept the services of any volunteer fire company, subject to such regulations as it may prescribe. Fire department.

30. To purchase fire engines and all necessary apparatus for the extinguishment of fires, and to purchase, construct and erect pumps, water mains, reservoirs, wells, cisterns and other waterworks. Purchase fire-engines.

31. To require the inhabitants of the city to aid in the extinguishment of fires. Extinguishment of fires.

32. To pull down and raze such buildings in the vicinity of fire as shall be directed by them or any three or more of them present at the fire, to prevent its communication to other buildings. Raze buildings.

33. To establish fire limits, within which Fire limits.

wooden or other combustible buildings shall not be erected or rebuilt.

Fire escapes. 34. To require the owners or occupants of buildings to provide suitable ladders and fire escapes, which shall be appurtenances to the realty and exempt from seizure and sale separate from the realty.

Gunpowder. 35. To regulate the storage of gunpowder and other explosive and dangerous substances.

Engines. 36. To provide for the inspection and regulation of stationary steam engines and boilers.

Ashes. 37. To require the construction of safe places for the deposits of ashes.

Stoves. 38. To regulate the manner of putting up stoves and stove-pipes, and the construction of chimneys.

Lumber yards. 39. To regulate the keeping of any lumber yard, or the storing or keeping of lumber, timber, wood, coal, or other combustible material in the city.

Firearms and crackers. 40. To prevent bonfires and the use of firearms and fireworks in the city or in any place or part thereof which may be dangerous to the city or any property therein, or annoying to the citizens thereof.

Sack companies. 41. To organize a sack company, determine the number of its members, and appoint its officers and members; and it may accept the services of any volunteer sack company, subject to such regulations as it may prescribe. Such company shall constitute a part of the fire department. It shall be their special duty to take charge at fires, of all property exposed or endangered, and as far as possible preserve the same from loss or injury; and for such purpose it shall have the same powers as the special police of the city.

Waterworks. 42. To construct, maintain and operate waterworks, mains, pipes and hydrants, to supply the city with pure and wholesome water; to regulate and prescribe the terms and conditions of the construction and use thereof, and prevent any unnecessary waste of water.

Impure water. 43. To prevent the use by the inhabitants of the city, for culinary purposes, of impure and unwholesome water.

Board of health. 44. To appoint a board of health, which shall have all the powers of such boards under the general laws of the state, and such other powers as the council may legally confer.

45. To erect, purchase, or rent and maintain pest-houses, hospitals and dispensaries, and control and regulate the same. Pest houses

46. To prevent, or control and regulate, the landing of persons from boats, vessels, cars, stages or other conveyances, wherein are infectious or contagious diseases. Infectious diseases.

47. To make regulations to prevent the introduction and spread of contagious diseases; to make quarantine laws and regulations and enforce the same within the limits of the city. Contagious diseases.

48. To regulate the burial of the dead and the return of bills of mortality. Burial of dead.

49. To declare what are nuisances, and to abate all nuisances under the ordinances, the laws of the state or at common law; but nothing herein shall be construed to oust any court of its jurisdiction over such matters. Nuisances.

50. To require the owner or occupant of any soap factory, tallow chandler's shop, tannery, stable, barn, privy, sewer, or any unwholesome or nauseous building or place, to remove or abate the same or to cleanse and disinfect it as often as may be necessary for the public health. Abatement of nuisances.

51. To direct the location and management of slaughter houses and prevent the erection, use or occupancy of the same, except as authorized by it. Slaughter houses.

52. To prevent persons from bringing, depositing, leaving or permitting to remain on their premises, or on premises owned, occupied or controlled by them, within the city, any putrid carcass or other unwholesome substance. Putrid carcases.

53. To prohibit and prevent putting into the waters of Sturgeon Bay, or into any well or pool within the limits of the city, the carcass of any dead animal or other unwholesome thing or substance, or knowingly permitting the same by the owners thereof, to be put, or to remain therein. Defiling waters of bay.

54. To regulate public bathing within the city and to prevent the same except on compliance with such regulations as it shall prescribe. Bathing.

55. To establish and regulate markets and prevent sales in the streets. Public markets

56. To provide standards of weights and measures and prevent the use of false weights and measures. Weights and measures.

57. To regulate the place and manner of Hay and fuel.

weighing and selling hay, measuring and selling wood, coal and lime.

Bread. 58. To regulate the size, weight, quality and sale of bread.

Provisions. 59. To regulate the sale of game, poultry, fresh meat, vegetables, fish, butter and other provisions, and to prevent the sale of any unwholesome provisions.

Encumbering of streets. 60. To prevent the incumbering of streets, sidewalks, crosswalks and alleys with any thing or substance whatever.

Snow and dirt. 61. To require the owner or occupant of any building to remove any snow, dirt or rubbish from the sidewalk adjacent to his premises.

Horse racing. 62. To prevent horse-racing and immoderate riding and driving in the streets.

Riding and driving on sidewalks. 63. To prevent the riding or driving of animals or the driving of vehicles on or over the sidewalks.

Hitch horses. 64. To require the owners or drivers of horses or other animals, whether attached to vehicles or otherwise, to fasten the same while left in the streets or alleys of the city.

Hitching to trees. 65. To prohibit the hitching of horses, teams or animals to any tree, fence or pump, or to other public or private property liable to injury thereby.

Pounds, etc. 66. To establish pounds and regulate and protect the same.

Restrain cattle. 67. To restrain the running at large of cattle, horses, mules, sheep, swine, poultry or other animals, and to authorize the distraining, impounding and sale of the same.

Dogs. 68. To prevent the running at large of dogs, and to authorize their destruction in a summary manner when at large in violation of any ordinance.

Engines and cars. 69. To regulate and control the running of engines and cars through or into the city, and the rate of speed of the same.

Hackmen, etc. 70. To license draymen, cartmen, hackmen, omnibus drivers and porters, determine the prices they may charge for their services, and establish rules and regulations as to their conduct as such, and prevent any unnecessary noise or disturbance on the arrival or departure of persons in public conveyances.

Shows. 71. To prevent or license and regulate the exhibitions of caravans, circuses, theatrical performances, minstrels or shows of any kind.

72. To prevent or license and regulate the keeping of billiard tables, pigeon hole tables and bowling saloons. Billiard tables.

73. To suppress and restrain or license and regulate hawkers, mountebanks, peddlers and auctioneers. Hawkers, etc.

74. To prevent and suppress or license and regulate the sale of intoxicating liquors. Liquors.

75. To prevent and suppress the sale or giving away of intoxicating liquors unless licensed by it.

76. To fix the price of any license by it granted, but the sum to be paid for any license to sell intoxicating liquors shall, in no case, be less than the minimum price fixed therefor by the general laws of the state. Price of license.

77. To prescribe the term of any license granted by it, but such term shall not extend beyond the annual election of officers next after the granting thereof. Term of license.

78. To revoke any license granted by it for the violation of any provision of this act, or of any ordinance relating to the subject matter of such license. Revoke license.

79. To prohibit and restrain the sale of intoxicating liquor to any designated person or persons, whether resident of the city or not, and to cause notice thereof to be given, which notice shall be in writing, signed by the mayor and clerk, and may be served by the marshal in the same manner as a summons in justice's court; and such notice, with the time and manner of service indorsed thereon, shall be filed in the clerk's office, and shall be *prima facie* evidence of the issuing of such notice and of the service thereof, as therein set forth; and the same shall continue in force until revoked by the council. Sale of intoxicating liquors.

80. To prohibit and suppress all kinds of gaming and all fraudulent practices and devices, and provide for the seizure and destruction of all instruments and devices used for the purpose of gaming. Gaming.

81. To prevent and suppress riots and all riotous conduct, unseemly noises, disturbances, disorderly assemblages, disorderly conduct, disorderly houses, houses of ill-fame, drunkenness, immoderate drinking, vagrancy, obscenity, lewdness and prostitution in the city. Riots, etc.

82. To provide for the arrest and punishment of persons who go about for the purpose of gam- Gamblers.

ing, or who have in their possession any implements or thing used for obtaining money under false pretenses, or who disturb any concert, theatre, or other public entertainment, or any school, Sunday school or congregation assembled for religious worship.

Concealed weapons.

83. To prohibit and prevent the carrying by any person of any pistol, bowie-knife, dirk, dagger or other concealed and dangerous weapon, except as authorized by law.

Watch house.

84. To purchase or build, hold, maintain and regulate a watch house for the confinement of offenders against this act, or any ordinance, order or by-law made in pursuance thereof; to furnish the same, and provide all necessary implements for the safe handling and management of prisoners.

Protect public property.

85. To control and protect from injury the public buildings, records, streets, walks, parks, cemeteries, fences, trees, fire engines, wells, cisterns, reservoirs, pumps, water-works, lamps and any and all other property belonging to the city.

Insure property.

86. To cause such buildings and property of the city to be insured as it may deem advisable.

Renumber lots.

87. To renumber the lots and blocks of the city, or any part thereof; to change the name of any street or part of street therein, and to cause a revised and consolidated plat of the city to be recorded in the office of the register of deeds of Door county, and such record shall, from and after the date thereof, be constructive notice to all residents of said county, and from and after one year from the date thereof, to all persons whomsoever, of the changes so made.

Tax levy.

88. To levy, and provide for the assessment and collection of taxes, as herein provided.

Council shall examine and adjust accounts.

89. To audit and allow, or disallow all claims and demands against the city, except for school purposes, and to direct the issuing of orders on the treasury therefor.

Statement to be read.

90. To cause to be prepared and read at each annual election, a true, detailed and itemized statement by it of the finances of the city, showing the amount in the treasury at the beginning of the year, and in each of the several funds therein, the amount received in each fund for the same time, the amount disbursed from each fund, and generally, the purposes for which the sum was paid out, and the whole amount then in the

treasury, and in each fund. Such statement shall be read at 1:30 o'clock P. M., and shall be filed and recorded in the clerk's office.

91. To authorize the issuing of the bonds of the city, and the drawing of orders on its treasury, payable at a future day, and with or without interest, and generally, to manage and regulate the finances of the city, and provide the means to carry into effect the provisions of this act, or of any ordinance, order or by-law enacted in pursuance thereof. Issue bonds.

92. To provide for the prosecution or defense of all actions in which the city is a party or interested, and to procure counsel therefor. Defense in all actions.

93. To relieve and support all poor and indigent persons lawfully settled in the city, whenever they shall stand in need thereof; and for this purpose the city shall have the same rights, powers and privileges, and be subject to the same duties and obligations as towns, and the council shall perform the same duties as town supervisors. Poor people.

94. To establish wharf and dock lines and lines beyond which structures shall not be erected into or over the waters of Sturgeon Bay, in said city. Wharf and dock lines.

95. To regulate the construction and use of piers and wharves extending into the waters of Sturgeon Bay, in said city. Piers and wharves.

96. To construct and maintain, or cause to be constructed and maintained, at the expense of the city, wharves at the foot of the streets extending to the shore of said bay.

97. To prescribe the form of any notice required to be given, served or published by any provision of this act. Form of notice.

98. To make such contracts as may be necessary or proper, for public printing, for the erection or repairs of buildings or other structures, for grading or paving streets, for the construction or repair of sidewalks, crosswalks, gutters, drains and sewers, for the construction of water-works, or for any other work to be done for the city, or for the furnishing of materials therefor; to let all such contracts for work or materials to the lowest bidder or otherwise, as in its judgment will best subserve the interests of the city; and to take such security for the performance of any contract, and for insuring the city against loss or damage in consequence of the careless or negligent per- Public printing.

formance of the same as may be sufficient and necessary; and it may cause any such work to be done or materials furnished in any other way which it may deem for the good of the city.

Respecting the making of ordinances.

99. To ordain and enact such ordinances and by-laws, and adopt and pass such orders, resolutions and votes as may be necessary and proper to carry into effect the provisions of this act, and subject to the conditions contained herein, to alter, amend and repeal, reconsider and modify or rescind the same.

Ordinances.

100. As an independent and substantive grant of power, to ordain and enact all such ordinances and by-laws, and make therein such provisions for the government and good order of the city, for the suppression of vice and immorality, for the prevention of crime, for the protection of public and private property, for the benefit of trade and commerce, and the promotion of the public health, as it may deem expedient; provided only, that they be not repugnant to the constitution and laws of the United States or of this state.

Penalties.

101. To prescribe the penalty for the violation of any provision of any such ordinance or by-law, or of any provision of this act when not herein ascertained, which shall not be less than one dollar ($1.00) nor more than two hundred dollars ($200), and in all cases costs of suit, and in default of payment to commit to the watch house for a period not exceeding six months.

Penalties to be in form of an ordinance.

SECTION 53. Every enactment by the council, except by-laws, regulating its own proceedings, imposing any penalty or forfeiture for the violation or non-performance thereof, or of any provision thereof, shall be in the form of an ordinance, and the style thereof shall be, "The council of the city of Sturgeon Bay do ordain as follows."

Prima facie evidence.

SECTION 54. Every such ordinance shall be suitably entitled of the subject matter therein, and shall be published in some newspaper published regularly in the city, and shall take effect and be in force from and after one week after such publication. And every ordinance or by-law duly enacted and published, shall have the force of law. An affidavit of such publication, made by the printer or foreman of such newspaper, shall be attached to a printed copy of such ordinance or by-law, and filed therewith in the office of the clerk; and such affidavit shall be competent

evidence and *prima facie* proof in all courts and places of the matters therein stated.

EVIDENCE.

Evidence.

SECTION 55. This act shall be deemed a public act, and all courts and tribunals shall take notice thereof, without pleading the same and without proof.

Printed copy.

SECTION 56. All printed ordinances and by-laws of the city, purporting to be printed by authority of the council, and showing the date of the publication thereof, shall be admitted in evidence without further proof of their enactment or publication.

Notice of ordinances.

SECTION 57. The police justice, and all city officers shall take notice of all ordinances and by-laws duly enacted and published without proof thereof, or of their enactment or publication.

SCHOOLS.

Superintendent of schools.

SECTION 58. At its meeting on the first Tuesday after its election, in each year, or within two weeks thereafter, the council shall appoint a superintendent of schools, who shall hold his office till the second Tuesday in April following, and until his successor is elected and qualified.

Board of education.

SECTION 59. The mayor, clerk and superintendent of schools, shall constitute the board of education. The board of education shall have power to audit and allow all claims against the city for school purposes; to expend in the manner prescribed by law, or as directed by the council, all moneys appropriated by the council for school purposes, or so much thereof as may be necessary but shall not expend for any purpose more than the council shall have provided therefor; and except as herein otherwise provided, it shall have the same powers and shall perform the same duties, as school district boards under the general laws of the state.

City property designated.

SECTION 60. School buildings, grounds and furniture shall be deemed the property of the city, and as property, shall be subject to the control of the council. The council shall also have the power to erect new school houses and buildings, and to determine the necessity for the same; also, to locate and procure sites therefor, and to deter-

mine the plan, style and cost of all such buildings and of the furniture therefor; also, to determine the amount necessary for teachers' wages, repairs, furniture, fuel, janitor service and all other items of expense, and to appropriate and vote the necessary sum or sums therefor.

Free high school.

SECTION 61. The free high school now established in district number one of the town of Sturgeon Bay, shall continue as a free high school in said city, and the board of education shall constitute the high school board. Such high school board shall expend in the manner prescribed by law, or as directed by the council, all moneys provided for the support of such free high school, or so much thereof as may be necessary; and it shall have and exercise the same general powers as other high school boards under the general laws of the state, except that it shall report to the council the amount of money desired for the support of such high school, and the council shall determine the amount necessary therefor, and except also, as may be herein otherwise provided.

Duties of clerk.

SECTION 62. The clerk shall be clerk of the board of education, and of the high school board, and the mayor shall be director of the high school board, and president of the board of education. All orders for the payment of school moneys shall be signed by them, and shall be made payable out of the proper fund in the city treasury.

Duties of school superintendent.

SECTION 63. In addition to his duties as a member of the board of education and of the high school board, it shall be the duty of the superintendent of schools to examine all applicants for license to teach in the public schools of the city, and to give certificates to such only as are duly qualified; to annul any teacher's certificate for cause, but such teacher shall have the right of appeal to the board of education; to visit each school or department thereof, in the city, at least three times each term, and to give such instructions and make such suggestions as he may think necessary for the proper conduct of the same; to see that the prescribed course of study is pursued in a systematic, orderly manner, and superintend the examination of classes and pupils for promotion; to see that all rules adopted by the board for the government of the schools, for the protection of school property, and for the conduct of pupils at school and on the school grounds, are properly

observed; to suspend for the time being, subject to the action of the board of education, any pupil for misconduct; to attend the meetings of the council when required, and to give such information, and recommend such measures as, in his judgment, will improve and advance the schools and promote the health and comfort of pupils and teachers; and to perform such other duties as the council shall prescribe or direct.

PRIVATE PROPERTY FOR PUBLIC USE.

Property for public use.

SECTION 64. Whenever the council shall deem it expedient to lay out and open, change, widen or extend any street, lane or alley, or public grounds, or to construct or open, alter, enlarge or extend any drain or sewer, and it shall be necessary to take private property therefor, it shall cause an accurate survey and plat thereof to be made, and filed with the clerk; and it may purchase or take by gift all such grounds as may be needed, and take conveyances thereof to the city for such use, or in fee. If unable to agree with the owner thereof for any such land, it shall, by resolution, declare the purpose for which the same is needed, and shall therein accurately describe the land proposed to be taken, defining each tract separately and giving the amount thereof and the names of the owners or occupants so far as known, and fix therein a day, hour and place, when and where it will apply to the county judge of Door county, for a jury to condemn and appraise the same.

Notice to be made.

SECTION 65. The council shall also cause to be made a notice of the adoption of such resolution, embracing a copy thereof, and addressed to all the parties interested, that it will, at the time and place named, apply to such judge for the appointment of a jury to condemn and appraise such land. A copy of such notice shall be served by the marshal on the owner or occupant of each such tract of land, if known, and a resident of the county. Such notice may be served in the same manner as a summons in the circuit court, and the return of the officer indorsed thereon shall be conclusive evidence of the facts therein stated. If notice cannot be so given as to any tract or tracts, then the same shall be published once a week for three successive weeks, in some newspaper published in the city, and the affidavit

of the printer or foreman of such newspaper shall be conclusive evidence of such publication. Such publication shall be completed and such notice served, at least one week before the time fixed therein for such application. If any known owner of such tract be a minor or insane, and shall have no general guardian in this state, the judge, on the day fixed for the hearing, and before proceeding thereto, shall appoint for such persons a guardian for the purposes of such proceeding, who shall accept such tract and act for his ward therein.

Manner of hearing.

SECTION 66. At the time and place fixed for such hearing, the application and a copy of the notice and survey, with proof of the service of the notice, shall be filed with the judge, who shall thereupon make a list of twenty-four competent jurors, not exempt nor interested, but residents of the city shall not, for that reason, be disqualified. He shall hear and decide any challenge for cause or favor, made to any one, and if sustained, shall replace his name with an unobjectionable juror, until the list is perfected. Then each party, the city by its representatives on the one side, and the owners of the land or their agents present, or if none be present, or they disagree, a disinterested person appointed by the judge, on the other, shall strike six names from the list, one at a time and alternately, the city beginning. The judge shall issue a precept to the twelve remaining jurors, requiring them on the day and hour named, not more than ten nor less than three days thereafter, to appear before him to be sworn, and to serve as a jury to view the lands and appraise the damages; and at the same time he shall publicly adjourn the proceedings to the time and place so named. Such precept shall be served by the marshal or any constable, at least one day before such appointed time, by reading the same to each juror, or by leaving a copy at his usual place of abode, in the presence of a member of his family.

Duties of jurors.

SECTION 67. The jurors summoned shall appear at the time and place named; and if any be excused, or fail to attend, the judge shall direct other competent persons to be summoned, until twelve be obtained. The judge shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the land mentioned in the notice, and if

found necessary, the damages to each owner occasioned thereby, and that they will faithfully discharge their duties as jurors according to law.

Jury shall view the lands.

SECTION 68. Under the direction of the judge, the jury shall view the lands, and they shall then sit before him to hear such competent and pertinent evidence as may be offered by any party. For such purpose the judge shall possess the powers of a court in session with a jury, and if necessary, may adjourn from day to day. If the jury unanimously find it necessary to take such lands, or any part thereof, they shall render a separate verdict in writing, signed by them, describing such lands as they find necessary to be taken. In such case they shall render a further verdict or appraisement of damages, specifying therein separately the value of the land taken from each owner, and the damages otherwise sustained by each, in estimating which they shall deduct therefrom any special benefit to each owner to be derived from such improvement; and a majority of such jury may render such verdict or appraisement, and sign the same. Any technical error in the verdict may be corrected in the presence and with the assent of the jury. They shall then be discharged, and their verdict filed by the judge. In case the jury fail to agree, another jury may be at once summoned, when the same proceedings shall be had as before.

Appeal from verdict.

SECTION 69. Within ten days after such verdict, any party aggrieved may appeal from the award of damages to him, to the circuit court of Door county, and the city may also appeal from any such award of damages to any owner, by filing with the judge a notice of appeal, specifying whether the appeal is from the whole award to him, or a part, and if from a part only, what part, and therewith an undertaking, with two sufficient sureties, to be approved by the judge, to pay all costs that may be awarded against the appellant on such appeal, and paying the judge for his return thereof, and one dollar ($1.00) as state tax. The city shall not be required to give such undertaking. Any party not appealing, shall be forever bound by such appraisement. If an appeal is taken, the judge shall transmit to the clerk of the circuit court, within ten days, the notice of appeal and undertaking, and thereto annexed a copy of all the papers and proceedings before him, duly certi-

fied by him. After ten days he shall file with the city clerk, annexed together, all the original papers, including the verdict, with his certificate thereof, and that no appeal has been taken, except as the facts are, which he shall briefly specify, and the clerk shall file and record such papers.

Transcripts filed to be considered an action.

SECTION 70. On the filing of such transcripts in the circuit court, the appeal shall be considered an action pending in such court; the city shall be plaintiff, and the owner defendant, and the action shall be subject to change of venue, and to appeal to the supreme court. It shall be tried by a jury, unless waived; costs shall be awarded against the appellant, unless a more favorable verdict be obtained.

In case jury find it necessary to take land.

SECTION 71. If the jury first called find it necessary to take such land, or any part thereof, the council may, upon return made to the clerk, by an order duly entered of record, lay out, change, widen or extend such street, lane, alley or public grounds, and direct the same to be opened, or direct the construction, opening, altering, enlarging or extending of such drain or sewer; but they shall not enter upon any such land therefor until the owner be paid in full the damages awarded him, or the amount thereof be set apart in the hands of the treasurer, and an order therefor lawfully executed to him be deposited with the clerk, there to remain subject to his order. At any time before actually causing such land to be put to public use, and before the rendition of judgment for damages in the circuit court, the council may discontinue all proceedings, and the city in such case shall be liable for costs only.

What the council may order entered in minutes.

SECTION 72. The council may, by order duly entered in its minutes, levy and assess the whole or any part, not less than half of the damages and costs incurred in the taking of any private property for public use, as a tax upon such property as it shall determine to be especially benefited thereby, making therein a list of such lands, in which shall be described every lot or tract so assessed, with the name of the owner, if known, and the amount levied thereon set opposite to such description. Such order, signed by the mayor and clerk, shall be published once a week for two weeks, in a newspaper printed regularly in the city, and a notice therewith that, at a time therein stated, the council will meet at its usual place

of meeting to hear any objection that may be made to such assessment. At the time so fixed the council shall meet and hear such objections as may be made, and may adjourn from day to day, and may modify such assessment in whole or part as it may deem just, and shall then deliver the same to the treasurer for collection. At any time before the fifteenth day of October thereafter, any party liable may pay such tax to the city treasurer. On the fifteenth day of October, or within one week thereafter, if any such tax remains unpaid the treasurer shall make return thereof, duly certified, to the clerk, who shall put the same with five per centum thereof additional, on the tax roll, in addition to all other taxes therein levied on such land, to be collected therewith.

PUBLIC IMPROVEMENTS.

Improvements.

SECTION 73. The council may cause any street, or any part of any street, to be graded or graded and paved, graveled or macadamized, or otherwise improved; it may cause any sidewalk or crosswalk to be constructed, or any gutter, sewer or drain to be constructed, enlarged or extended; it may purchase public parks and walks, and enclose, improve and ornament the same, and set shade and ornamental trees and shrubs therein, and in the streets of the city; and it may cause any street or part thereof, or public place, to be lighted, and may erect lamps or other structures therefor; and all such improvements shall be made and effected at the public expense, and paid for out of the city treasury; but the council shall have the right to require any person or persons especially interested in or benefited by any such improvement, to contribute such sum or such percentage of the cost thereof not exceeding one-half, as it may deem just and equitable, before or at the time of ordering such improvement.

Cost of improvements.

SECTION 74. All improvements of every nature, herein authorized to be made; all buildings and other structures herein authorized to be purchased, erected, constructed or made; all changes, alterations and repairs; and all other acts and things herein authorized to be done by or on behalf of the city, except as herein otherwise provided, shall be made, done and effected at the expense of the city, and the costs thereof shall be paid out of the city treasury.

Engines, apparatus, etc., at expense of city.

SECTION 75. All engines, apparatus, tools, implements, furniture, books, records, printing, work, labor or services, herein authorized to be procured or done, by or on behalf of the city, shall be procured and done at the expense of the city, and paid for out of the city treasury.

FINANCES.

Finances.

SECTION 76. Unless otherwise directed by the council, there shall be but one fund in the city treasury, aside from the school funds; such fund shall be called the city general fund, and all moneys received into the treasury, except school moneys, shall constitute such fund; and all orders drawn on the treasury, except school orders, shall be drawn on and payable out of such fund. But the council may require other funds to be kept, in which case such other funds shall have appropriate designations, and separate accounts shall be kept therewith.

School funds.

SECTION 77. The school funds of the city shall be a teachers' wages fund, a general fund, and there may be a building fund. The council may at any time direct any unexpended balance in the building fund to be paid into either of the other school funds.

What orders shall specify.

SECTION 78. All orders drawn on the treasury shall specify the fund out of which they are to be paid. They shall be drawn in such form, and such memoranda shall be made on the stubs, and such record made thereof, as the council shall direct.

Poll tax.

SECTION 79. Every elector of the city, except as herein otherwise provided, shall be liable to pay an annual poll tax of one dollar and fifty cents ($1.50). On or before the twentieth day of May in each year, the clerk shall make a list of the names of all male persons resident in the city over twenty-one years of age, with the amount of such tax set opposite to each person's name, and submit the same to the council for correction. Any person who is poor and not able-bodied, and all members of any fire company, may be exempted from the payment of such tax. When such list is corrected, the council shall make and annex thereto an order, signed by the mayor and clerk, and directed to the treasurer, commanding him to collect all such taxes. Such list and order shall be delivered to the treasurer on or before the first

day of June of each year, and the treasurer shall forthwith proceed to collect such tax; and he may place on such list the name of any person omitted by mistake therefrom. He shall demand the tax once of each person named in the list, and if any person neglects to pay the same for ten days thereafter, then the treasurer shall, in the name of the city, sue for and collect such tax, with fifty per centum damages on the same, together with the costs of suit, before the police justice; and in default of payment of such judgment, execution shall issue against the defendant as in cases of tort; and the first process in any such action shall be a civil warrant.

Corporation taxes.

SECTION 80. On or before the fifteenth day of October in each year, the council shall, by order, resolution or vote, to be entered in the minutes of its proceedings, determine the amount of corporation taxes, exclusive of school taxes, to be assessed and levied on the taxable property in the city for the current year, which amount shall not, however, in any one year, exceed one per centum of the assessed valuation of such property. It shall, also, at the same time, determine the amounts necessary to be so assessed and levied for the various school purposes, specifying the amount for each fund separately. And it shall cause the amounts so determined on, to be so assessed, levied and collected as herein provided.

Bonds of city, how issued.

SECTION 81. Bonds of the city bearing not more than seven per cent. interest, or its orders, with or without interest, payable at a future day named, may be issued and sold under such restrictions and regulations as the council shall prescribe, for the discharge of any legal debt, the purchase or erection of public buildings, the purchase of fire engines, the purchase or erection of water works, the grading or paving of streets, the payment for property taken for any public use, the purchase or improvement of cemeteries, or public parks, or for any lawful purpose. No such indebtedness shall be created greater in the aggregate, at any time, than three per centum of the assessed valuation of the property in the city, nor without providing in the ordinance authorizing such indebtedness, for the annual levy of a tax sufficient to pay the interest on such debt, and for the levy of taxes to pay the principal thereof, within a period not exceeding ten years; such ordinance shall be irrevo-

cable till the debt be paid, and such taxes shall be levied as therein provided, without any other or further action of the council.

Question of bonding city to be submitted.

SECTION 82. The council may submit the question of bonding the city to a vote of the electors thereof, at any general or special election, and may prescribe the form and manner of taking such vote.

Penalties to be paid into city treasury.

SECTION 83. All forfeitures and penalties recovered in any court for the violation or non-performance of any provision of this act, or of any ordinance or by-law of the city, and all moneys paid for licenses, commissions, or permits, granted or authorized by the council, shall be paid into the city treasury for the use of the city.

AUDITING ACCOUNTS.

Auditing accounts.

SECTION 84. The council may, at any legal meeting, audit, adjust, and allow, or disallow, all claims and demands of every nature against the city, except claims or demands payable out of the school funds.

Maintaining actions against city.

SECTION 85. No action shall be maintained against the city on any claim or demand for money only, other than a city order or bond, unless such claim shall have been, in due form, presented to the council for allowance, and the council shall have refused to act on the same, or shall have neglected so to do for the space of three months.

Action of council to be final.

SECTION 86. Whenever the council shall act on any such claim, and shall disallow the same in whole or in part, its action shall be final and conclusive, and a perpetual bar to any action thereon, unless an appeal be taken from such action, as herein provided, or unless the council shall consent, by order or vote to be entered in the minutes of its proceedings, to the institution of an action by the claimant against the city.

Appeals, how taken.

SECTION 87. Whenever an appeal is taken from the action of the council, the same may be taken in the same manner, and within the same time, as appeals are allowed to be taken from the acts of the boards of county supervisors; the notice shall be served on the city clerk, and the bond shall be executed to the city, approved by the clerk, and filed in his office. The clerk shall at once give notice to the city attorney, and the subsequent proceedings and practice shall be the same, and be

governed by the same rules as in appeals from county boards of supervisors.

In case of actions against city.

SECTION 88. In case of any action commenced against the city, the mayor and clerk shall at once inform the city attorney thereof. Judgments against the city shall be collected in the same manner as judgments against towns; and no execution or attachment shall ever be levied on any property belonging to the city, nor upon any private property, to satisfy any demand or judgment against the city.

Accounts to be itemized.

SECTION 89. No claim or demand shall be allowed by the council unless the same is itemized and duly verified by the claimant or some one in his behalf; provided, that no tax shall be levied and no money appropriated out of the treasury except on a call of the ayes and noes.

What minutes shall show.

SECTION 90. The minutes of the proceedings of the council shall show to whom and for what purpose any account is allowed, and the amount or items thereof so allowed; and every claim allowed in part only, or disallowed, shall be filed and preserved in the clerk's office.

PENALTIES AND FORFEITURES.

Penalties and forfeitures.

SECTION 91. All actions brought to recover any penalty or forfeiture for a violation of any provision of this act, or of any ordinance or by-law enacted in pursuance thereof, shall be brought in the corporate name of the city. The first process in all cases, except when arrest is made without process, shall be a civil warrant, and the same shall be in like form and issued on affidavit in like manner as civil warrants are issued in justices' courts.

What constitutes a complaint.

SECTION 92. The complaint shall, in all cases, be sufficient, if without setting forth the special matter, it allege that the defendant is indebted to the plaintiff in the amount of such penalty or forfeiture, according to the provisions of the law, ordinance or by-law, by which the same is imposed, specifying such law, ordinance or by-law, by section, chapter or title, as the case may require, or in some other similar terms referring to the same, and contain a demand for judgment for the amount of such penalty or forfeiture.

Justice court pleadings.

SECTION 93. The subsequent pleadings in any such action shall be the same, and have the same force and effect as in actions for the collection of

penalties and forfeitures in justices' courts, under the general laws of the state.

How action shall be brought.

SECTION 94. The action may be brought for the highest sum specified as the penalty or forfeiture, and if judgment be given for the plaintiff, it shall be for the sum so demanded, or for such part thereof, within the prescribed limits, as the court shall deem proportionate to the offense, together with the costs of the action; and in all cases in which the law, ordinance or by-law, for the violation of which the action is brought, shall so prescribe, the courts shall further adjust that, in default of the payment of such sum and costs, the defendant shall be committed to the watch house for such time, within the prescribed limits, as shall seem to the court proportionate to the offense committed; such commitment shall state the amount of the penalty or forfeiture and costs, in default of payment of which the defendant has been committed; and such persons shall be released by the keeper of the watch house on the expiration of the time for which he was committed, or on the order of the police justice, stating that such judgment has been paid. Any person so committed shall be detained by such keeper, the time for which he was committed, unless sooner released in the manner aforesaid, or by due course of law.

Appeals to circuit court.

SECTION 95. Appeals may be taken to the circuit court by either party to the judgment of the police court, in any such action, in the same manner as appeals are taken from justices' courts in civil actions, except that where the defendant shall appeal, he shall, as an essential part of the appeal, enter into a recognizance to the city, with sureties to be approved by the police justice, conditioned that in case judgment be rendered against him on such appeal, he will pay such judgment and all costs taxable in such actions; and except, also, that such appeal shall be completed and such recognizances duly executed and filed within twenty-four hours after the rendition of the judgment so appealed from, and if the judgment appealed from be in part that the defendant be committed in case of non-payment, he shall, pending the perfecting of such appeal, remain in the custody of the officer; and in case the judgment in the appellate court be for the plaintiff, it shall be rendered against the principal and surety in

such recognizance, and execution may issue as in case of tort, against the defendant and such surety.

Respecting persons confined in watch house.

SECTION 96. When any person shall be committed to the watch house for the non-payment of any judgment, or any part thereof, the mayor may, by order, in writing, direct that such person work out the amount for which he is committed, and such person shall be put to work under the supervision of the street commissioner, or such other officer, agent or employe of the city as the mayor in such order, or from time to time, shall direct. He shall be credited for his labor, on the amount for which he is committed, at the rate of one dollar per day; but he shall not be detained for a longer period than six months. Such order shall be filed with the police justice, and notice thereof given to the marshal. The officer, agent, or employe of the city, under whom such person shall be set to work, for the purposes of his custody, shall have the powers of a policeman, and shall return such person at noon and evening of each day to the watch house.

City liable for costs and fees.

SECTION 97. The city shall not be liable for the costs or fees of any officer or person in any action in the police court, except the fees of witnesses for the plaintiff, other than the marshal or police of the city, in actions wherein the defendant is discharged, and except, also the fees of such witnesses, and of the marshal and justice, in cases where the defendant has been committed, and has worked out the judgment against him as herein provided.

No jury trials in police court.

SECTION 98. There shall be no jury trials in the police court, except when the justice thereof, shall exercise the ordinary powers and jurisdiction of a justice of the peace.

Village property to be transferred to city.

SECTION 99. The city of Sturgeon Bay shall own and succeed to all the money and property, and all the rights of the property, contract or action, and to all the duties, liabilities and obligations of the village of Sturgeon Bay; and all rights, actions, prosecutions, judgments, demands and claims in favor of, or against said village, shall continue and be of the same force in favor of, or against said city, as if no change had been made; and whenever any act or thing is to be done by or in the name of said village, it shall be sufficient if it be done by or in the name of said city.

SECTION 100. The treasurer of school district

Treasurer of school district to turn over money to city treasurer.

number one, of the town of Sturgeon Bay shall pay over to the treasurer of the city, on demand, after his proper qualification, all moneys, books, papers and property in his hands, belonging to said district; and the city treasurer, on the order of the proper officers therefor, shall disburse such moneys, or so much thereof, as may be necessary, in satisfaction and payment of all contracts and claims then in force against said school district, or for any purpose necessary to the proper performance of such contracts; and after the close of the terms of school then in progress in said district, the moneys and property of said district shall be apportioned in the manner prescribed by the general laws of the state.

Successors in office.

SECTION 101. For the purpose of carrying this act into effect the officers first elected and qualified under the provisions hereof, shall be deemed the successors of the corresponding officers of the village of Sturgeon Bay. The village clerk shall give notice of the first election under this act and shall be clerk of such election; the board of trustees of said village shall provide a place for the holding of such election, and shall designate three of their number to act as inspectors thereof; they shall provide the necessary ballot boxes and fix and determine the penal sum in which the officers elect shall give bonds, and may do any other act or thing requisite to the holding of such election. In case said first election shall, for any cause, be not held at the time herein designated, such board shall cause the same to be held as soon thereafter as practicable, and the officers so elected shall qualify within one week thereafter, and hold for the residue of the regular term.

Continue in force.

SECTION 102. All ordinances of said village, not inconsistent with this act, shall continue in force until altered or repealed by the council.

Town may hold elections in city.

SECTION 103. The town of Sturgeon Bay may hold its elections in the city of Sturgeon Bay, and the supervisors thereof may hold their meeting in said city, and the next election by said town may be held at the place of holding their last election, unless otherwise ordered by the authorities of said town.

SECTION 104. This act shall take effect and be in force from and after its passage and publication.

Approved April 3, 1883.

[No. 442, A.] [Published April 12, 1883.]

CHAPTER 343.

AN ACT to amend chapter 56, of the general laws of 1882, entitled, "An act to consolidate and amend an act entitled, 'an act to incorporate the city of Oconto, and the several acts amendatory thereof.'"

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 1, of chapter 9, of chapter 56, of the laws of 1882, is hereby amended by striking out the words, "and fifty (50) cents," where they occur in the sixth line of said section. Also by striking out the words, "on or before the fifteenth day of August in said year," where they occur in the 20th and 21st lines of said section, and by inserting in lieu thereof the words, "within ten days after such demand." Also by striking out the words, "day of September," where they occur in the thirty-ninth line of said section, and insert in lieu thereof the words, "Monday of each month during." Also by striking out the words, "senior alderman," in the forty-second and forty-eighth lines of said section, and insert in lieu thereof the word, "aldermen." Also by striking out the words, "within the months of June and July in each year," where they occur in the sixtieth and sixty-first lines of said section, so that said section 1, of chapter 1, of chapter 56, of the laws of 1882, when amended shall read as follows: Section 1. Every male inhabitant of the city of Oconto, over twenty-one years of age and under fifty years, except active members of the fire department in the city, and those otherwise exempt by the general laws of this state, shall pay into the city treasury annually the sum of one dollar ($1.00) each, as a poll tax. It shall be the duty of the assessor of the city of Oconto, during the month of May in each year, to make out duplicate lists of all persons liable to pay said tax, and the said assessor shall, on the first Monday of June each year, deliver one of said lists to the city clerk and one to the superintendent of streets of the city of Oconto. The said assessor, in making such lists, shall designate the ward in which each person on said list resides; and the superintendent of streets shall thereupon immediately proceed to collect the same; and all persons liable to pay

Amendment.

such tax, who shall not have paid the same after demand, either personally or by written notice left at their usual place of abode, within ten days after such demand, shall be liable to and shall pay a penalty of two dollars ($2.00) together with the costs of prosecution, to be prosecuted for by said superintendent of streets in the name of the city of Oconto. The process in such case shall be by warrant, and in case judgment shall be rendered against the defendant in such action and he shall refuse or neglect to pay such judgment, the superintendent of streets of said city shall proceed to collect the same in the same manner as hereinbefore in this section provided, and in case said taxes are not paid to said superintendent, he shall prosecute for them in the manner hereinbefore provided. The said superintendent of streets shall account for the tax of each ward of the city with the amount thus collected from the inhabitants of such ward, and all moneys collected by said superintendent as above specified shall be paid over to the city treasurer, on or before the first Monday of each month during the year. The moneys collected as above shall be kept as a distinct fund, and shall be expended under the direction of the aldermen of each ward, and at his request, under the supervision of the superintendent of streets, in the repair and improvements across streets, alleys and public grounds belonging to said city, in their several wards, for which said city is liable under section 9 of chapter 8 of this act, and to be drawn out on itemized accounts certified to by the aldermen of the ward in which said work is done, and audited by the common council. The mayor, city clerk and treasurer, shall constitute a board to determine the liability of persons to pay such tax, and all persons claiming to be exempt from such tax must apply to said board within twenty days from the time when said list shall be delivered to the superintendent of streets for collection; provided, that if any person shall desire to, he shall be permitted to perform ten hours' work upon the streets of the city in the ward in which he resides, under the direction of said superintendent of streets, and at such time as he shall direct, and the certificate of the superintendent of streets that such person has performed one full day's labor upon a street or highway within the ward in which said person resides.

shall be received by the city treasurer, in full discharge of such poll tax. And it is further provided that said superintendent shall have power to add on said list the names of all said persons by him known to be liable to pay said tax that may have been omitted by said assessor.

Amendment in regard to superintendent of streets.

SECTION 2. Section 2, of chapter 9, of chapter 56, of the laws of 1882, is hereby amended by striking out the words, "senior alderman," in the thirteenth line of said section, and insert in lieu thereof the word "aldermen." Also by striking out the words, "day of September in each," where they occur in the fourteenth line of said section, and insert in lieu thereof the words, "Monday of each month during the," so that said section, when amended, shall read as follows: Section 2. The superintendent of streets shall, before entering on the duties of his office, execute to the city a bond in the penal sum of two thousand dollars ($2,000), with two or more sufficient sureties, to be approved by the common council, conditioned for the faithful performance of the duties of his office and for such other duties as may be required of him by the common council, and for the proper expenditure of the money which may be collected or come into his hands by virtue of his office. He shall have a general supervision of all streets; he shall expend the money realized from the poll tax in each ward at such places in each ward as shall be designated by the aldermen thereof; he shall, on or before the first Monday of each month, report to the common council in writing, under oath, a true and correct statement of all moneys received by him by virtue of this act, and from whom received and how and where expended; and the said superintendent of streets shall be held strictly responsible for the full and complete execution of this act, so far as the same relates to streets, according to the terms thereof, and the common council may, at any time, remove him from office for neglect of duty and appoint a competent man in his place. The street superintendent shall receive for his services not more than two dollars ($2.00) for each day actually and necessarily occupied by him in discharge of his duties. The marshal of said city of Oconto shall be street superintendent in any year when the common council shall so determine, and shall receive for his services as such superintendent such

sum per day as the council shall determine, not exceeding two dollars ($2.00) per day.

Amendment in regard to superintendent of schools.

SECTION 3. Section 3, of chapter 10, of chapter 56, of the laws of 1882, is hereby amended by striking out the word "January," in the fourth line of said section, and insert in lieu thereof the word "June," so that said section 3 shall read, when amended, as follows: Section 3. The school commissioners shall annually, as hereinafter provided, elect a city superintendent of schools, whose term of office shall commence on the first Monday of June, and said superintendent shall continue in office one year, unless sooner removed by a vote of two-thirds of all the members of the common council for misconduct or other sufficient cause.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 129, A.] [Published April 17, 1883.]

CHAPTER 350.

AN ACT to amend chapters 5 and 6, of chapter 221 of the laws of 1882, entitled "an act to reduce the act incorporating the city of Janesville, and the several acts amendatory thereof, into one act, and to amend the same."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Amendment in regard to actions against corporations.

SECTION 1. Chapter 5, of chapter 221, of the laws of 1882, is hereby amended by adding after section 13, of said chapter 5, the following: "Section 14. Actions brought against corporations for penalties for violation of ordinances, by-laws, police or health regulations of said city, passed in pursuance of the charter of said city, may be commenced by summons, and the trial of such actions, when so brought, and all subsequent proceedings, shall be conducted and had in the manner now provided by law for the trial of civil actions cognizable by justices of the peace."

Amendment in regard to taxes.

SECTION 2. Chapter 6, of chapter 221, of the laws of 1882, is hereby amended by adding after the seventh subdivision of said chapter, the following. Eighth. To annually levy and collect taxes, not to exceed ten thousand dollars ($10,000), on all real and personal property in said city, to meet

the current expenses of operating and maintaining any public water works constructed by said city, or of supplying said city with water under any contract entered into by it or by any board of water commissioners duly authorized by law to contract for or construct water works for said city, which shall constitute the water and fire department fund, and when levied there shall be no levy made under the fifth subdivision of said chapter 6.

Amendment.

SECTION 3. Chapter 12, of said chapter 221, of the laws of 1882, is hereby amended by inserting after section 47, the following: Section 48. There is hereby established a board of water commissioners of the city of Janesville, to be composed of five members to be residents of said city; the term of office of one of whom shall expire on the day of the municipal election in said city in each year. The first members of said board shall hold their offices respectively for one, two, three, four and five years, and thereafter the term of office of the said commissioner shall be five years. Said commissioners shall be elected from the city at large at the municipal election in said city in the manner provided for the election of city officers. No member of the said board shall receive any salary or other compensation for his services, and no person holding any other office in said city under the charter of said city, shall be eligible as a member of said board, and the acceptance of any such other office by any member of said board or his removal from said city, shall operate as a resignation of his office as a member of said board. If any vacancy until the next municipal election shall occur in said board, the mayor of said city shall nominate some suitable person to fill such vacancy, and if the common council shall approve such nomination, the person so appointed shall be a member of said board until such vacancy shall be filled by election. If any vacancy shall occur in said board for any reason, a commissioner shall be elected at the next municipal election to fill such vacancy. Section 49. No member of the said board shall be appointed to or hold any office under said board, or receive any employment therefrom, or by its authority, for which he would be entitled to receive any salary or other compensation, or be directly or indirectly interested in any contract or agreement

Board of water commissioners.

Members not to hold office.

made by said board or by its authority, or by said city. And any member of said board who shall violate any of the provisions of this section may be removed by the common council of said city, which shall thereupon declare his office vacant, and shall proceed to fill such vacancy in the manner hereinbefore provided. Section 50. The said board shall choose one of its own members as president, and may remove him at pleasure, and appoint another member of said board in his place; said board shall also have power to employ a secretary, who shall hold his office at its pleasure, and who shall keep a full and true record of all the proceedings of said board, and perform such other duties pertaining to his office as the said board shall direct; said board shall have power to regulate the times and mode of holding its own meetings. The president shall preside at all meetings at which he shall be present, and in his absence said board may appoint a president *pro tem.* A majority of said board shall constitute a quorum for the transaction of business, but no question shall be determined except by an affirmative vote of a majority of the members of the said board. The office and place of meeting of said board shall be in the city of Janesville, at such place as may be designated by the common council of said city. Section 51. All moneys and funds levied and collected for the purpose of constructing, maintaining or operating water works in said city, and all income or revenue derived from any water works owned or operated by said city, shall be kept by the treasurer of said city in a separate fund to be known as the water fund and paid out on orders signed by the president of said board, countersigned by the secretary of said board. Section 52. It shall be the duty of said board to examine, consider and determine the best mode, plan or system of supplying said city with a sufficient quantity of pure and wholesome water for the use of said city and the inhabitants thereof. Section 53. When said board shall have so determined on the mode, plan or system of so supplying the said city with water, it shall cause proper specifications and diagrams thereof to be made and submit the same to the common council of said city for approval. The common council may, thereupon, propose amendment, mod

Shall choose a president.

Water fund.

Supply of city with water.

Specifications and diagrams.

ifications or alterations therein, and refer the same to said board for approval. Whenever a mode, plan or system of so supplying said city with water, shall be agreed upon between the said board and the said council, it shall be adopted for said city; provided, that such mode, plan or system may be altered, modified or amended from time to time by the consent of said board and said common council. Section 54. The said board shall have power to construct fire hydrants and hydrants for public use and fountains, at such places in the said city as said board, with the approval of the said common council, shall determine, and to lay water pipes in and through all the alleys, streets and public grounds in the said city, and such other works as may be found necessary, from time to time, for the purposes herein provided. Section 55. Said board, its officers, agents and servants, shall have power to enter upon any land or water in said city, for the purpose of making examinations or surveys in the performance of their duties, without liability therefor. Section 56. The said board shall have power to purchase and acquire for said city, with the approval of the common council, all real and personal property which may be necessary for the construction of the works herein provided for. Whenever any real estate or any easement therein or use thereof shall, in the judgment of said board, be necessary for the construction of said works, and for any cause an agreement for the purchase or use thereof cannot be made with the owner, it shall report the same to the common council, and thereupon the said council shall proceed in the manner provided in chapter 7, of chapter 221, of the laws of 1882, for the condemnation of real estate for the use of said city. Section 57. All property, real, personal and mixed, acquired for the construction of said water works, and all plans, specifications, diagrams, papers, books and records connected therewith, and the said water works and all buildings, machinery and fixtures appertaining thereto shall be the property of the city of Janesville. Section 58. Said board shall have power, with the approval of the common council, to employ one chief and such assistant engineers, a general superintendent, and such collectors and agents as may be necessary, in the construction and man-

Fire hydrants.

Examinations for water.

May purchase real and personal property.

Shall be the property of city.

Power to employ fire officers.

agement of said water works and to fix the compensation of all persons employed by it.

Shall make report annually.

Section 59. It shall be the duty of said board on or before the first Monday in March of each year, to report to the said common council its plans for work for the ensuing year, and the nature, extent and details of the work which it proposes to do during the year, and the estimated cost thereof for approval. The said council shall take such report into consideration, and shall have power to propose amendments, modifications or alterations therein, and refer the same back to the said board. Said board shall have power, from time to time, to propose amendments, modifications or alterations therein, and submit the same to said common council. No plan of work for such year shall be adopted without the approval of said board and the said common council; but such plan when adopted may be amended, modified or altered by the consent of the said board and said council.

Respecting the letting of work.

Section 60. When such plan of work for the year shall have been so adopted, the said board shall have power to proceed to let the same or any part thereof, to be done by contract, in the same manner as contracts for public works are let, under the provisions of chapter 7, of chapter 221, of the laws of 1882. All such contracts shall be executed on behalf of the said city by the president and clerk of said board in duplicate, one copy to remain in the office of said board.

Regarding work done by its own servants.

Section 61. If, in the judgment of said board, it will be for the interest of said city for said board to do any such work by its own servants or agents, it shall be the duty of said board to report the same to the common council with its reasons therefor, and said council shall have power to authorize said board to so perform such work.

Report every three months.

Section 62. It shall be the duty of said board to report all its proceedings, the state of said water fund, and the general condition of said water works once in three months to said council.

Water works to be under control of board.

Section 63. Said water works and all the grounds, buildings, fixtures and machinery and other things appertaining thereto shall be under the control of said board, subject to the authority of said common council. Said board shall have power, from time to time, to make and enforce by-laws, rules and regulations, and before the actual introduction of water, it shall make such

by-laws, rules and regulations, fixing uniform water rates to be paid for the use of water furnished by the said water works and for the collection of the same, and fixing the manner of distributing and supplying water for use or consumption and for withholding or shutting off the same for cause, and it shall have power, from time to time, to alter, modify or repeal such by-laws, rules or regulations; provided, that no such by-law, rule or regulation or alteration, modification or repeal thereof shall have any force until approved by said common council. Section 64. The common council of said city is hereby authorized to borrow money not to exceed one hundred and fifteen thousand dollars ($115,000) to defray the expense of constructing public water works as hereinbefore provided, and shall have power to cause the negotiable bonds of said city to be issued and negotiated for such purpose. Said bonds not to exceed one hundred and fifteen thousand dollars ($115,000). Such bonds shall draw interest at such rate, not exceeding seven per cent. per annum; and be made payable at such time or times, not exceeding twenty years from the date thereof; and at such place or places, as said common council shall designate. Section 65. Provided, that no tax shall be levied or collected, nor any bond or bonds be issued by said council, nor any contract or agreement entered into or indebtedness or liability incurred by said council or said board or any officer or agent thereof for the construction of such water works, nor shall any such board be elected unless a petition be filed with the city clerk of said city, signed by a majority of the persons whose names appear on the assessment roll of said city, for the year preceding the filing of said petition, together with an affidavit setting forth that the persons whose names appear on said petition signed the same, and that they constitute a majority of the persons whose names appear on the said assessment roll; requesting that the said board herein provided for may be elected and that the tax mentioned in section 2 of this act for the current expenses of operating and maintaining public water works constructed by said city, or so much thereof as may be necessary, may be levied by said council, and that said water works may be constructed by said board, as provided in this act, and that the bonds

Authorized to borrow money.

Proviso.

of the city, specifying the amount, may be issued for the purpose of borrowing money for the construction by said board, for said city, of public water works, as provided in this act.

SECTION 4. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 205, A.] [Published April 11, 1883.]

CHAPTER 351.

AN ACT to incorporate the city of Nicolet.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Corporate name.

SECTION 1. All that district of country in the county of Brown hereinafter described shall be a city by the name of the city of Nicolet, and the people now inhabiting and those who shall inhabit said district, shall be a municipal corporation by the name of the city of Nicolet, and shall have the general powers possessed by municipal corporations at common law, and in addition thereto, shall have and possess the powers hereinafter specifically granted, and the authorities thereof, shall have perpetual succession and shall be capable of contracting and being contracted with, suing and being sued, pleading and being impleaded, in all courts of law and equity, and shall have a common seal and may change and alter the same at pleasure.

Boundaries.

SECTION 2. All the territory within Brown county hereinafter described and bounded, shall be included in and constitute the limits of the city of Nicolet, to-wit: Commencing at a point where the center channel line of Ashwaubenon creek (so called) intersects the center of the channel of Fox river; thence along the center of said creek up stream through private claims twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28) and twenty-nine (29), west side of Fox river, in the county of Brown, including the parts of said private claims lying between Ashwaubenon creek on the west and the Fox river on the east; also fractional section twenty-one (21), township twenty-three (23), range twenty (20) and lot four (4), of fractional section twenty (20), town twenty-

three (23), range twenty (20), and all that part of the northeast quarter (¼) of section twenty-nine (29), town twenty-three (23), range twenty (20), lying east of Ashwaubenon creek, and all that part of section twenty-eight (28), town twenty-three (23), range twenty (20), lying north of the east and west quarter (¼) line of said section twenty-eight (28); also a tract of land about fifteen (15) acres, owned by G. E. Armstrong and James Millar, being all of fractional section twenty-seven (27), west of Fox river, town twenty-three (23), range twenty (20), and lots four (4), and five (5), in section twenty-eight (28), town twenty-three (23), range twenty (20), and lots one (1) and two (2), and three (3), all in section thirty-three (33), town twenty-three (23), range twenty (20); thence easterly from the south point of said lot three (3), to the center of the channel of Fox river; thence following said channel down stream to the place of beginning, shall constitute the limits and boundaries of the city of Nicolet.

Ward boundaries.

SECTION 3. The city of Nicolet shall be divided into two wards as follows, to-wit: All pieces and parcels of land within the incorporated limits of the city of Nicolet lying east of the Chicago & Northwestern railroad main track and south of the center line of Main street in said city; also blocks one (1), two (2), three (3), four (4), five (5) and six (6), Depere company's addition to West Depere, lying east of the center line of Fifth street, and also block (7), same addition; and all lying north of the center line of Main street in said city, shall constitute the First ward. All of private claims twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28), lying east of the Ashwaubenon creek and west of the Fox river, excepting blocks one (1), two (2), three (3), four (4), five (5) and six (6), Depere company's addition to West Depere; also that part of private claim twenty-nine (29), lying east of the Ashwaubenon creek and west of the Chicago & Northwestern railroad main track, and lot four (4), section twenty (20), town twenty-three (23), range twenty (20), all of fractional section twenty-one (21), town twenty-three (23), range twenty (20), also all of those parts of sections twenty-eight (28), and twenty-nine (29), town twenty-three (23), range twenty (20), within the incorporated limits of said city, and lying east of the Ashwaubenon creek

and west of the Chicago & Northwestern railroad main track shall constitute the Second ward.

ELECTIONS.

Elections, when held.

SECTION 4. The first election under this charter shall be held at the place where the last general election was held in the village of West De Pere on the third Tuesday of April, 1883, and thereafter the annual election for city and ward officers shall be held on the first Tuesday in April in each year, at such place in such wards as the common council shall designate; ten days' notice shall be given of the time and place of holding such election. All elections under this charter shall be conducted in the same manner as the general elections for state and county officers, and the qualifications of voters shall be the same as in such general elections. The mayor, treasurer, assessor, and aldermen shall be qualified voters and residents in said city; the polls shall be kept open from nine o'clock in the forenoon until sundown.

Officers to be elected.

SECTION 5. The officers to be elected by the people shall be a mayor, treasurer, assessor and two justices of the peace from the city at large, three aldermen and one constable from each ward, a clerk, marshal and all other necessary officers shall be appointed by the common council. All elective officers, except justices of the peace, shall, unless elected to fill a vacancy, hold their respective offices for one year and until their successors are elected and qualified. Justices of the peace shall hold their offices for two years and until their successors are elected and qualified. The terms of every officer elected under this act shall commence on the second Tuesday in April of the year for which such officer is elected, except justices of the peace, who shall qualify in the same manner as provided by the general laws of this state. The term of office of all appointed officers shall expire with that of the members of the body appointing them.

Vacancies, how filled.

SECTION 6. Whenever a vacancy shall occur in the office of mayor or justice of the peace, the council may order a new election, and shall give five days' notice thereof. Vacancies in other offices shall be filled by the council. The person elected or appointed to fill a vacancy shall hold his office and discharge the duties thereof for the unexpired term, with the same rights and subject

to the same liabilities as the person whose office he may be elected or appointed to fill.

Election by ballot—tie vote.

SECTION 7. All elections by the people shall be by ballot, and a plurality of votes shall constitute an election. The votes of all elective officers shall be on one ballot, and shall be deposited in one ballot box. When two or more candidates for one elective office shall receive an equal number of votes for the same office, the election shall be determined by casting of lots in the presence of the common council, at such time and in such manner as it shall direct.

Manner of conducting elections.

SECTION 8. The elections shall be held and conducted in the same manner and under the same penalties, and all guards against illegal voting observed, and inspectors and clerks appointed, and vacancies in the board of inspectors filled as required by the laws of this state regarding elections.

Canvass and return of votes.

SECTION 9. When an election shall be closed, and the number of votes for candidates or persons voted for shall be counted and ascertained, the said inspectors shall make a return thereof, stating therein the number of votes for each person for each and every office, and shall deliver or cause to be delivered, such return to the city clerk, within three days after election. The common council shall, on the fourth day after such election, meet and canvass said returns and declare the results as it appears from the same, and the city clerk shall forthwith give notice to each person elected of his respective election.

Expulsions and removals.

SECTION 10. The common council shall have power, for due cause, to expel any of its members. The mayor shall have power to suspend any police officer or watchman, appointed by the council, when complained of, until the council shall take up his case and dispose of it. He shall also have power to fill any vacancy thus created for the time being. All officers appointed by the mayor or common council may be removed at the pleasure of the council by a two-thirds vote of the aldermen elect.

Special elections.

SECTION 11. Special elections to fill vacancies, or for any other purpose, shall be held and conducted in the same manner and the returns thereof shall be made in the same form and manner as general or annual elections, and within such time as may be prescribed by ordinance. All

election notices shall be by publication in some newspaper published in the city or county, or by publishing the same by posting up three written or printed notices in each ward.

Election of supervisors.

SECTION 12. A supervisor to represent each ward of said city in the county board of supervisors of Brown county, shall be annually elected at the time and place of the election of aldermen for said city. Each supervisor so elected shall hold his office for one year, and shall be when so elected, a resident of the ward for which he is elected.

Upon whom election duties fall.

SECTION 13. All the duties herein required of the common council and aldermen in regard to elections, shall be performed so far as may be necessary by the present president and board of trustees of the village of West De Pere, in regard to the first election, and the organization of the city government under this act.

In case of failure to elect.

SECTION 14. Should there be a failure by the people to elect any officer therein required to be elected, on the day designated, the common council may order a new election to be held, five days' notice of the time and place of holding the election first being given.

Officers, their powers and duties.

SECTION 15. Every person elected or appointed to any office under the provisions of this act, except justices of the peace, shall, before entering upon the duties of his office, take and subscribe the oath of office, prescribed in the constitution of this state, and file the same, duly certified by the officer taking the same, with the clerk of the city. The treasurer, clerk, and such other officers as the common council may direct, shall each, before entering upon the duties of his office, execute to the city of Nicolet, a bond, with two or more sureties, the aggregate amounts of whose property within the state, above all their respective debts, liabilities and exemptions, as shown by their several and respective affidavits attached to, or indorsed on such bond, shall be at least double the sum named as penalty in such bond. Said bond shall contain such penal sum and such conditions as the common council may deem proper, and shall be subject to the approval of said council. The council may, from time to time, require new additional bonds, and remove from office any officer neglecting or refusing to give the same. All official bonds executed to the city of Nicolet, except that

of the city clerk, shall be filed with, and safely preserved by the city clerk in his office, unless the common council shall otherwise direct. The bonds of all officers who may be charged with the collection or safe keeping, or with the disposition or disbursements of any of the funds of said city, or may have any control over such funds at any time, and such other bonds as the common council may direct, shall be duly witnessed and acknowledged and recorded in the office of the register of deeds for the county of Brown. The bond of the city clerk shall be filed with the city treasurer.

Mayor, his duties.

SECTION 16. The mayor shall preside over the meetings of the common council, but shall have a vote only in case of a tie. He shall take care that the laws of the state and the ordinances of the city are duly observed and enforced, and that all officers of the city discharge their respective duties. He shall, from time to time, give the common council such information, and recommend such measures as he may deem advantageous to the city. The mayor shall be chief executive officer and head of the police of the city. He may appoint policemen, which appointments shall be approved by the common council before they shall enter upon the duties of their office, and the compensation of said policemen, as well as temporary policemen and watchmen as may be appointed, shall be fixed by the common council, and whenever in his judgment occasion requires, he may appoint as many special or temporary policemen as he may deem necessary, but their appointments shall not continue beyond the next meeting of the common council thereafter, unless approved by said council. The mayor shall, at the first regular meeting of the common council in each year, make out and announce such standing committees of the year, and on such subjects as may be, by ordinance or resolution of the common council, required.

PRESIDENT—HIS DUTIES.

Election of president, his duties.

SECTION 17. The common council shall, after its first meeting for organization each year, after the annual election, choose by ballot from its number a president, who, in the absence of the mayor, shall preside over the meetings of the common council, and in case of the absence of

the mayor from the city, or his inability for any reason to discharge the duties of his office, the president shall exercise all the powers and discharge all the duties of the mayor for the time being, except the signing of city bonds. In case of the absence of both mayor and the president at any meetings of the council, the council may choose from its number a president *pro tem.*, who, for the time being, shall discharge all the duties of the mayor. The president, or president *pro tem.*, while presiding over the council or performing the duties of the mayor, shall be styled acting mayor, and their acts, except the signing of city bonds, shall have the same force and validity as if done by the mayor.

CITY CLERK — HIS DUTIES.

Duties of city clerk.

SECTION 18. The clerk shall keep the corporate seal and all the papers and records of the city, and keep a full record of the proceedings of the common council, at whose meetings it shall be his duty to attend; copies of any and all books, papers, instruments or documents, duly filed and kept in his office, and of the endorsements thereon, transcripts from the records of the proceedings of the common council, duly certified by him under the corporate seal of the city, shall be evidence in all courts in like manner as the originals. He shall draw and countersign all orders on the treasury in pursuance of any order or resolution of the common council, and keep a full and accurate account thereof, and of the fund on which the same is drawn, in books provided for that purpose. He shall also keep in such manner as the common council may direct, an accurate account with the treasurer, and charge him with all tax lists delivered to him for collection, and all sums of money paid into the treasury. The clerk shall have power and authority to administer oaths and affirmations. Whenever the clerk shall be absent from any cause, the council may appoint a clerk *pro tem.*, who, for the time being, shall be vested with the powers and duties of the clerk. The clerk shall receive an annual salary to be fixed by the council.

City attorney, his duties.

SECTION 19. The common council after its first meeting for organization, may appoint a city attorney, whose duty it shall be to conduct all the law business of the corporation. He shall

when required, furnish opinions upon subjects connected with the welfare of the corporation submitted to him by the council or any committee. He shall keep a docket of all cases to which the city may be a party in any court of record, in which shall be briefly entered all steps taken in each cause, which docket shall be the property of the city and shall, at all times, be open to inspection of the mayor or any committee of the common council. It shall also be the duty of the city attorney to draft all general ordinances, all bonds, contracts, leases, conveyances and other instruments of writing that may be required by the business of the city, and to perform such other duties as may be prescribed by the charter and ordinances. He shall receive an annual salary to be fixed by the council.

STREET SUPERINTENDENT — HIS DUTIES.

Election of street superintendent, his duties.

SECTION 20. The common council shall also, at its first meeting for organization each year after the annual election, choose by ballot a street superintendent. The street superintendent shall see that all ordinances of the city relating to the obstruction and cleaning of sidewalks, streets, bridges, alleys, public grounds, reservoirs, gutters, sewers and waters of the rivers in said city are duly observed and kept, and to control the persons employed therein. He shall have the general supervision over all work let by contract for the making, grading, paving, graveling, planking, repairing and cleaning of streets, bridges, alleys, public grounds, reservoirs and gutters, unless the common council shall otherwise direct. He shall receive such compensation as the council may determine.

CITY SURVEYOR — HIS DUTIES.

Election of city surveyor, his duties.

SECTION 21. The common council may also, at its first meeting for organization, after the annual election, or as soon thereafter as convenient, elect a city surveyor, who shall be a practical surveyor and engineer. He shall keep his office at some convenient place within said city; and the common council shall prescribe his duties and fix the fees and compensation for any service performed by him. All surveys, profiles, plans or estimates made by him for the city or either of the wards, shall be the property of said city, and

shall be carefully preserved in the office of the clerk, open to the inspection of parties interested.

JUSTICES OF THE PEACE—JURISDICTION, ETC.

Jurisdiction of justices of the peace.

SECTION 22. The justices of the peace elected under this act shall have the same jurisdiction and perform all the duties of justices of the peace and shall qualify in the same manner as provided by the general laws of this state; except that the official bonds or agreements shall be approved by a majority of the common council. And they shall have jurisdiction in all cases arising under this act, and the ordinances of said city, and in all actions for the recovery of any penalty or fine under all laws, ordinances, by-laws or police regulations thereof. And no suits shall be commenced or prosecuted in the name of said city, for any violation of an ordinance thereof, except by consent of the mayor, city attorney or other officers of said city, but any such suits that shall be commenced or prosecuted before one of said justices shall be presumed to have been commenced or prosecuted by his consent.

ASSESSOR—HIS DUTIES.

Duties of assessor.

SECTION 23. The assessor shall assess all the taxable property of the city of Nicolet as required by law without regard to wards; and shall complete and return his assessment roll in the manner hereinafter provided and receive such compensation as the council may determine.

TREASURER — HIS DUTIES.

Duties of treasurer.

SECTION 24. The city treasurer shall perform all the duties required of him by law; collect all city, county and state taxes, and pay over all moneys in his hands according to law. He shall keep in a proper book, an account of all moneys received and of all moneys paid out, and the same shall, at all times, be open to the inspection of the voters of the city. He shall make reports quarterly, and render an itemized account to the common council of all sums received, when and by whom the same was paid, and also of all moneys by him paid out; and all moneys raised, received, recovered or collected by means of any tax, license, penalty, forfeiture, fine or otherwise belonging to said city under the authority of this act, shall be paid into the treasury of the city, and

shall not be drawn therefrom except by an order issued by order of the common council, and signed by the mayor or acting mayor, and countersigned or attested by the city clerk; provided, that the school fund may be drawn out as provided by other provisions of this act. The treasurer shall have the same powers and be subject to the same laws and liabilities and governed by the same laws as treasurers of towns in this state.

Annual report of treasurer.

SECTION 25. On the first day of April in each year, the treasurer shall file in the office of the city clerk, a statement, showing in detail, the monthly receipts and disbursements of the preceding year, an account of each separate fund, and the condition of such funds at the date of the report.

CITY MARSHAL.

Duties of city marshal.

SECTION 26. The city marshal shall attend the meetings of the common council and shall perform such duties as shall be prescribed by the common council for the preservation of the peace and the collection of license money and fines, and shall receive such compensation as the common council may determine. He shall possess all the powers of a constable within the city limits and be subject to the same liabilities. He shall execute and return all writs and processes to him directed, and when necessary in criminal cases, as for the violation of any of the ordinances of the city, or the laws of this state, may pursue the offender and serve the same in any part of the state. He shall suppress all riots, disturbances and breaches of the peace, and cause to be abated all nuisances in said city. He shall apprehend all persons in the act of committing any offense against any law of this state, or violating any ordinance of said city, and within reasonable time bring such persons before competent authority for examination, and for such services he shall receive such fees as are allowed by law to constables for like services. He shall see that all peddlers, hawkers, auctioneers, common showmen and all other exhibitors or other persons pursuing any business or occupation subject to license under the laws of this state and the ordinances of the city, are duly licensed, and to prosecute, in the name of the city, all persons pursuing such business without license, or otherwise violating the laws or ordinances in re-

spect thereto, and shall see that all ordinances of said city are duly observed and enforced.

Further duties may be required of officer.

SECTION 27. The common council shall have power, from time to time, to require other and further duties to be performed by any officer whose duties are herein prescribed, and to appoint such other officers as may be necessary to carry into effect the provisions of this act, and to prescribe their duties and to fix the compensation of all officers elected or appointed when the same shall not be fixed by law. Such compensation shall be fixed by resolution or ordinance at the time the office is created, or as soon as practicable after the commencement of the municipal year, and shall not be increased or diminished during the term of such officer. The common council shall also have power to dismiss any officer appointed by said council under the provisions of this section at any time when, in the judgment of said council, the services of such officer are no longer needed.

Penalty for failure to deliver to successor.

SECTION 28. If any person having been an officer in the city, shall not, within ten days after notification and request, deliver to his successor in office all property, books, papers and effects belonging to said city or pertaining to the office he may have held, he shall forfeit and pay to the use of the city not less than one hundred dollars ($100) nor more than five hundred dollars ($500), besides all damages caused by his neglect or refusal so to deliver, and such successor may recover the possession of such books, papers, property and effects in the manner prescribed by the laws of this state.

Who are officers of the peace.

SECTION 29. The mayor, acting mayor, sheriff of Brown county, and each and every alderman, justice of the peace, marshal, under sheriff and deputy sheriff of Brown county, constable, policeman and watchman, shall be officers of the peace, and may command the peace, and suppress in a summary manner, all rioting and disorderly behavior within the limits of the city; and for such purposes may command the assistance of all bystanders, and if need be, of all citizens; and if any person, bystander, military officer or private, shall refuse to aid in maintaining the peace when so required, every such person shall forfeit and pay a fine of fifty dollars ($50), and in cases where the civil powers may be required to suppress riotous or disorderly behavior, the superior officer present

in the order mentioned in this section shall direct the proceedings.

Common council and style of ordinances.

SECTION 30. The mayor and aldermen shall constitute the common council, and the style of all ordinances shall be, "the common council of the city of Nicolet do ordain," etc.

First annual meeting of common council and rules governing.

SECTION 31. The common council shall hold its first annual meetings each year on the second Tuesday of April, and thereafter stated meetings at such time and places as it shall appoint, and the mayor may call special meetings by notice to each of the members, to be served personally or left at his usual place of abode, which notice shall specify the object of the meeting and the business to be transacted, and no other business shall come before such meeting. The common council shall determine the rules for its own government and proceedings; provided, such rules are consistent with the provisions of this act. A majority of the aldermen elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn; its sessions shall be open and public; its proceedings shall be recorded in full, and all its papers and records, and all election returns, shall be deposited with the clerk of the common council, and the same may be examined at any time in the presence of the clerk. The vote of the common council shall, in all cases, be taken by ayes and noes, and every vote shall be entered at length upon the journal. The common council shall be the judge of the election and qualification of its own members, and may punish its members or other persons present, by fine, for disorderly behavior; may compel the attendance of its members upon its sessions, and may employ the police of said city for that purpose, and may fine or expel any member for neglecting his duty as such member, or for unnecessary absence from the sessions of the board.

POWERS OF THE COUNCIL.

Powers of common council.

SECTION 32. The common council shall have the management and control of the finances, except school moneys, and of all other property of the city, and shall likewise, in addition to all other powers herein vested in it, have full power and authority to make, enact, ordain, establish publish, enforce, alter, modify, amend and repeal all such

ordinances, rules, resolutions and by-laws for the government and good order of the city, for the suppression of vice, for the prevention of crime, and for the benefit of the trade, commerce and health thereof, and for carrying into effect the powers vested in said common council, and to declare and impose penalties, and to enforce the same against any person or persons who may violate any of the provisions of said ordinances, rules, by-laws and regulations; and such ordinances, rules and by-laws are hereby declared to be and have the force of law; provided, that they be not repugnant to the constitution and laws of the United States or of this state, and for these purposes shall have authority by ordinance, resolution or by-law.

To grant and regulate licenses for saloons, etc.

1st. To regulate groceries, taverns, victualing houses, saloons, gardens, and all other places within said city where spirituous, vinous or fermented liquors are sold or given away, and to license, regulate and restrain tavern keepers, groceries, keepers of saloons, victualing houses or other houses or places for dealing in, selling or giving away spirituous, vinous or fermented liquors, and to regulate the amounts to be paid for such license, and to restrain or prohibit any person from vending, giving or dealing in spirituous, vinous or fermented liquors unless duly licensed by authority of the common council. Such license shall not be granted for a longer term than one year, and shall run from the first day of May: provided, however, when any such license is applied for after that date, the same be granted to expire on the first day of May next following, on the applicants paying *pro rata* therefor.

Bowling or nine pin alleys.

2nd. To license, tax, regulate, suppress or prohibit billiard tables, nine pin alleys, bowling saloons and ball alleys.

Shows and showmen.

3rd. To license, tax, regulate, suppress and prohibit all exhibitions of common showmen, shows of any and every kind, concerts or other musical entertainments, exhibitions of natural or artificial curiosities, caravans, circuses, theatrical performances, and all other exhibitions and amusements.

Gambling.

4th. To restrain, prohibit and suppress all descriptions of gambling and fraudulent devices and practices, and all playing of cards, dice or other games of chance with or without betting.

5th. To prevent any riot, noise, disturbance, or disorderly assemblages, suppress and restrain disorderly houses or groceries and houses of ill-fame, and to authorize the destruction of all instruments used for the purpose of gaming. Riots and noise.

6th. To compel the owner or occupant of any grocery, cellar, tallow chandler shop, soap factory, tannery, stable, barn, privy, sewer, meat market, or other unwholesome or nauseous house or place, to cleanse, remove or abate the same from time to time, as often as it may be deemed necessary for the health, comfort and convenience of the inhabitants of said city. Unwholesome or nauseous places.

7th. To direct the location and management of and regulate breweries, tanneries and packing houses, and to direct the location, management and construction of and regulate, license, restrain, abate or prohibit within the city limits, and the distance of two miles therefrom, distilleries, slaughter houses, establishments for steaming or rendering lard, tallow, offal, and such other substances as can or may be rendered, and all establishments or places where any nauseous, offensive or unwholesome business may be carried on. Breweries, tanneries, etc.

8th. To prevent the incumbering of the streets, sidewalks, lanes or alleys with railroad cars, locomotives, engine or engines, carriages, carts, wagons, sleighs, boxes, lumber, fire wood, or any other materials or substances whatever. Encumbering streets, etc.

9th. To prevent horse racing and immoderate riding or driving in the streets, and authorize any person to stop persons immoderately riding or driving as aforesaid; to prohibit and punish the abuse of animals, and to compel persons to fasten their horses, oxen or other animals attached to vehicles or otherwise, while standing or remaining in any streets, alley or public grounds. Racing and immoderate driving.

10th. To license, regulate and restrain the keeping, conveying, vending and storage of gunpowder and other combustible and dangerous material. Gunpowder.

11th. To regulate and determine the times and places of bathing and swimming in the rivers, harbor and other waters in and adjoining said city, and to prevent any obscene or indecent exhibition, exposure or conduct. Swimming or bathing.

12th. To restrain, regulate, or prohibit the running at large of cattle, horses, mules, swine, sheep, goats, poultry and geese, and to authorize the dis- Restrain cattle, horses, etc.

training, impounding and sale of the same for the penalty incurred and the costs of the proceedings, and also to impose penalties on the owners of any such animals for a violation of any ordinance in relation thereto.

Dogs, etc.

13th. To prevent the running at large of dogs, and to authorize the destruction of the same in a summary manner when at large contrary to the ordinance.

Putrid carcasses.

14th. To prevent any person from bringing depositing or having within said city, any putrid carcass or other unwholesome substance, and to require the removal of the same by any person who shall have upon his premises any such substance, or putrid or unsound beef, pork, fish, hides, skins, or substance of any kind, and on his default, to authorize the removal thereof by some competent officer, at the expense of such person or persons.

Pounds, cisterns, etc.

15th. To make and establish public pounds, pumps, wells, cisterns and reservoirs.

Lamps and lighting of streets.

16th. To erect lamps and regulate the lighting thereof, and to provide for lighting streets, public grounds and public buildings with gas or otherwise.

Hackmen, cabmen, etc.

17th. To regulate, license and suppress omnibus drivers, hackmen, coachmen, cabmen, cartmen, draymen, and all others who may pursue like occupations in this city, and to prescribe their compensation.

Runners and solicitors.

18th. To restrain and regulate runners and solicitors for boats, vessels, cars, railroads, stages, public houses, or other establishments.

Boards of health.

19th. To establish and regulate boards of health, and to define their powers and duties.

Cemetery grounds.

20th. To provide hospitals and cemetery grounds, and may buy and hold cemetery grounds outside of the city limits, regulate the burial of the dead, and the return of the bills of mortality, and exempt burial grounds set apart for public use from taxation.

Pest houses.

21st. To erect or establish one or more pest houses, hospitals and dispensaries, and control and regulate the same.

Contagious or infectious diseases.

22d. To regulate, control and prevent the landing of persons from boats, vessels, cars and stages, wherein are contagious or infectious diseases or disorders, and to make such disposition of such persons as to preserve the health of said city; and

also to make regulations to prevent the introduction of contagious diseases into the city or their spread therein, and to make quarantine laws or regulations and enforce the same within the city, and not exceeding two miles beyond the city limits.

Abate nuisances.

23d. To abate and remove all nuisances under the ordinances, the laws of the state, or at common law, and punish the authors thereof by penalties, fine and imprisonment; and to define and declare what shall be deemed nuisances, and authorize and direct the summary abatement thereof; but nothing in this act shall be so construed as to oust any court of its jurisdiction to abate and remove nuisances in the streets, or any other part of the city, or within its jurisdiction, by indictment, information or otherwise.

Establish markets.

24th. To establish public markets and to make rules and regulations for the government of the same, to appoint suitable officers for overseeing and regulating such markets, and to restrain all persons from interrupting or interfering with the due observance of such rules and regulations.

Bread.

25th. To regulate the size, weight, quality and sale of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

Riding or driving on sidewalks.

26th. To prevent all persons from riding or driving any ox, mule, cattle, or other animals on the sidewalks in said city, or in any other way doing any damage to said sidewalks.

Fire arms and fireworks.

27th. To prevent the shooting of firearms or crackers, and to prevent the exhibition of any fireworks in any situation which may be considered by the council dangerous to the city or any property therein, or annoying to any citizens thereof.

Vagrancy and prostitutes.

28th. To restrain and punish vagrants, mendicants, street beggars, and prostitutes; and to restrain drunkenness or obscenity in the streets or public places, and to provide for the arresting, removing and punishing any person or persons who may be guilty of the same.

Provisions.

29th. To regulate butchers, and to regulate and restrain the sale of game, poultry, fresh meat, vegetables, fish, butter, eggs and other provisions in the city, and to cause the seizure and destruction of tainted or unwholesome meat, butter, vegetables, fruit or provisions.

Hay and fuel. 30th. To regulate the place and manner of the weighing and selling hay and measuring and selling fuel and lime, and to appoint suitable persons to superintend and conduct the same; and to appoint a fish inspector, and regulate by ordinance his duties and fees, and to regulate the measuring and inspection of lumber, shingles, timber, posts, staves and headings and all building material, and to appoint an inspector.

Snow and dirt. 31st. To compel the owner or occupants of buildings and grounds to remove snow, dirt or rubbish from the sidewalks, streets or alleys opposite thereto, and to compel such owner or occupant to remove from the lot owned or occupied by him, all such substances as the board of health shall direct, and in his default, to authorize the removal or destruction thereof by some officer of the city, at the expense of such owner or occupant.

Piers and wharves. 32d. To regulate the construction of piers and wharves extending into Fox river, within the limits of the city.

Wharf and dock lines. 33d. To establish wharf and dock lines upon the banks of Fox river, within said city, and to restrain and prevent encroachments upon said river, and obstructions thereto, and to construct, alter and maintain, or cause to be constructed, altered and maintained at the expense of the city, wharves at the foot of the streets, along the banks of said river.

Watchmen and policemen. 34th. To appoint watchmen and policemen, and to establish and regulate the police of the city, and prescribe their duties.

Auctions and vendues. 35th. To regulate the times, places and manner of holding public auctions and vendues.

Auctioneers, peddlers, breweries, etc. 36th. To tax, license and regulate auctioneers, distilleries, brewers and pawn-brokers, and to tax, license, regulate and restrain hawkers and peddlers, keepers or proprietors of gift book stores, gift concerts and other gift enterprises.

Protect monuments. 37th. To protect monuments in the city, and to direct and regulate the planting and preservation of ornamental trees in the streets and public grounds.

Weights and measures. 38th. To provide, by ordinance, for a standard of weights and measures, and for the punishment of the use of false weights and measures.

Sewers. 39th. To provide for and regulate the construction of gutters or sewers within said city.

Streets and alleys. 40th. To control, regulate, repair, amend and

clear the streets and alleys, bridges, and side and cross walks, and lay out, open, widen, straighten, alter and vacate streets and alleys, and establish and alter the grade thereof, and alter or change the name thereof, and prevent the encumbering of the streets and alleys in any manner, and protect the same from any encroachment or injury; or to regulate the manner of using the streets and pavements in said city, and protect the same from injury by vehicles used thereon.

Streets and alleys.

41st. To control and regulate the streets, alleys and public grounds in said city, and to remove and abate any obstructions and encroachments therein.

Lumber yards.

42d. To regulate or prohibit the keeping of any lumber yard, and the placing, piling or selling of lumber, timber, wood or other combustible materials within the limits of said city.

Rivers and harbors.

43d. To preserve the rivers and harbors, to prevent any use of the same or any act in relation thereto inconsistent with or detrimental to the public health, or calculated to render the waters of the same, or any part thereof impure or offensive, or tending in any degree to fill up or obstruct the same; to prevent and punish the casting or depositing therein of any earth, dead animals, ashes or other substance, or logs, or floating matter; to prevent and remove all obstructions therein and punish the authors thereof.

Vagrants.

44th. To authorize the arrest, fine and imprisonment as vagrants of all persons who, not having visible means to maintain themselves and without employment, idly loitering or rambling about or staying in groceries, drinking saloons, houses of ill-fame, or houses of bad repute, gambling houses, or who shall be found trespassing in the night time upon the private premises of others, or begging or placing themselves in the street or other thoroughfare or public place to beg or receive alms; also keepers, exhibitors or visitors at any gambling table, gambling house or other place of device, and all persons who go about for the purpose of gaming, or who shall have in their possession any article or thing used for obtaining money under false pretenses, or who shall disturb any concert, theater or other public entertainment or place where public or private schools are held, either week-day or Sunday, or places where religious worship is held.

Concealed weapons.

45th. To regulate and prohibit the carrying or wearing by any person, under his clothes, or concealed about his person, of any pistol, sling-shot, or knuckles, bowie knife, dirk knife, or dirk or dagger, or any other dangerous or deadly weapon, and to provide for the confiscation or sale of such weapon.

Ordinances.

46th. To make, ordain, amend and repeal all such ordinances, by-laws and police regulations, not contrary to the constitution of this state for the good order and government of the city, and which may be necessary or expedient to carry into effect the powers, vested in the mayor and common council or any officer of said city by this act, or which may be vested in any officer of said city by any ordinance thereof.

Laws and ordinances, how passed.

SECTION 33. All laws, ordinances, regulations, and by-laws shall be passed by an affirmative vote of a majority of the common council, and shall be signed by the mayor, and shall be published in some newspaper in Brown county, or in pamphlet or book form, purporting to be published by authority of the common council, or by the city clerk posting notices or copies thereof in three public places in the city, or certified by the clerk of said city to have been published, shall be *prima facie* evidence of its passage and publication, and they shall be recorded by the city clerk in books to be provided for that purpose; no ordinance shall be passed, no appropriation shall be made, and no act, regulation, resolution or order which may create a debt or liability against said city, or a charge upon any fund thereof, shall be adopted without a vote in its favor of a majority of all the aldermen entitled to seats in the common council.

Seven days grace.

SECTION 34. No ordinance or resolution requiring the signature of the mayor, shall take effect until seven days after the passage of the same, unless sooner approved in writing by the mayor, for the time being.

Veto power.

SECTION 35. The mayor shall have power to veto any ordinance, act or resolution passed by the common council, by notifying the common council of his objections thereto at any time within seven days after the passage of such ordinance or resolution. In case of no session of the council on any day after the passage of the same and before the expiration of the said seven days, such notification shall be made by filing with the clerk

a copy of his objections, and the clerk shall thereupon call a special meeting of the council in the manner provided by section 31 of this act, to consider such veto and objections; and in case the council shall not, within one week after the receipt of such objection or such filing with the clerk, re-enact such ordinance or pass such resolution by the vote of two-thirds of the aldermen elect, the same shall be null and void. If the mayor shall not return any ordinance, act or resolution so presented to him within seven days after the passage thereof, it shall take effect in the same manner as if he signed it.

How veto may be rescinded.

SECTION 36. No vote of the common council shall be reconsidered or rescinded at a special meeting, unless at such special meeting there be present as large a number of aldermen as were present when such vote was taken.

Committees.

SECTION 37. All ordinances, petitions and communications to the common council, and all accounts and resolutions appropriating money or creating any charge against any of the funds of said city, shall be referred to appropriate committees. Actions upon any report of a committee made to the common council, shall be deferred to the next regular meeting of the same, by request of one-third of the aldermen present.

Powers conferred shall not bar or hinder suits.

SECTION 38. The powers conferred upon the said council to provide for the abatement or removal of nuisances, shall not bar or hinder suits, prosecutions or proceedings in the courts according to law. Depots, houses, or buildings of any kind wherein more than ten pounds of gunpowder are deposited, stored or kept at any one time, gambling houses, or houses of ill-fame, disorderly taverns and houses or places where spirituous, vinous or fermented liquors are sold without license required therefor, within the limits of said city, are hereby declared and shall be deemed public or common nuisances.

Common council shall examine and audit accounts.

SECTION 39. The council shall examine, audit and adjust the accounts of the clerk, treasurer, marshal, superintendent of streets, and all other officers and agents of the city, at such times as it may deem proper, and also at the end of the year, and before the time for which the officers of said city are elected or appointed shall have expired, and the common council shall require each and every such officer and agent to exhibit his

books, funds and money, accounts and vouchers for such examination and settlement, and if any such officer or agent shall refuse to comply with the order of said council, in the discharge of his said duties, in pursuance of this section, or shall neglect or refuse to render his accounts or present his books, funds, moneys and vouchers to said council, it shall be the duty of the common council to declare the office of such person vacant; and the common council shall order suits and proceedings at law against any officer or agent of said city who may be found delinquent or defaulting in his accounts or in the discharge of his official duties, and shall make a full record of all adjustments and settlements.

Power of council to lay out public streets.

SECTION 40. The common council shall have power to lay out public squares, grounds, streets, and alleys, and to widen the same, as follows: Whenever ten or more freeholders residing in any one ward shall, by petition, represent to the common council that it is necessary to take certain lands within the ward where such petitioners reside, for the public use, for the purpose of laying out public squares, grounds, streets or alleys, or the enlarging or widening of the same, the courses and distances, metes and bounds of the lands proposed to be taken, together with the names and residences of the owners of such premises, if the same shall be known to the petitioners, to be set forth in such petition. The common council may then, by resolution, resolve to grant the prayer of said petitioners; and it shall forthwith cause an accurate survey and plat of all lands necessary for said purposes, to be made and filed with the city clerk, and it may purchase, or take by donation such grounds as shall be needed, by agreement with the owner, and take from them conveyances thereof to the city for such use or in fee; but otherwise, it shall, by resolution, declare its purpose to take the same, and therein describe, by metes and bounds, the location of the proposed improvement, and the land proposed to be taken therefor, defining separately each parcel and the amount thereof owned by a distinct owner, mentioning the names of the owners or occupants, so far as known, and therein fix a day, time and place when and where it will apply to the county judge of Brown county for a jury to condemn and appraise the same.

Condemnation of lands.

SECTION 41. It shall thereupon cause to be made by the city clerk a notice of the adoption of said resolution, embracing a copy thereof, and notifying all parties interested, that the common council will, at the time and place named, apply to the county judge for the appointment of a jury to condemn and appraise such lands. A copy of such notice shall be served by the street superintendent or any policeman of said city, on the owner of such parcel of land to be taken, if known and a resident within the county, such service to be made in the manner prescribed for serving a summons in an action in the circuit court, and the return of the officer shall be evidence of the facts stated therein. If the notice cannot be so given as to all of the parcels, then the same shall also be published once in each week for three consecutive weeks, in a newspaper published in said city or Brown county, and the affidavits of the printer or foreman of such newspaper shall be evidence of such publication. Such notice shall be served and such publication made for three weeks complete, at least one week before the time fixed therein for such application. If any person so served with notice be a minor or of unsound mind, the county judge shall, before proceeding on the day fixed for hearing such application, appoint for him a guardian for the purposes of such proceeding, who shall give security to the satisfaction of the county judge, and act for such ward.

Proceedings before county judge.

SECTION 42. At the time and place fixed for such hearing, the application, accompanied by a copy of such resolution and such survey, and by proof of the service of the notice, as provided in the last section, shall be filed with the county judge, who shall thereupon make a list of twenty-four competent jurors, residents of said city, but not residents of said ward, nor interested in said application. He shall hear and decide any challenges for cause or favor made to any one, and if sustained shall replace his name with an unobjectionable juror, until the list shall be perfected, whereupon, under direction of said county judge, each party, the common council by the city attorney of said city on one side, and the owners of land or their agents present, or if none be present, or if they disagree, a disinterested person, appointed by the county judge, on the other, shall challenge six names, one at a time alternately, the common

council beginning. To the twelve jurors remaining, the county judge shall issue a precept requiring them at an hour on a day named, not more than ten nor less than three days thereafter, to appear before him to be sworn, and serve as a juror to view lands and appraise damages in the said proceedings, and at the same time shall publicly adjourn the proceedings to the time and place so named; such precept shall be served by the street superintendent or any policeman of said city, at least one day before such appointed time, by reading the same to each juror, or by leaving a copy at his usual place of abode, in presence of a member of his family.

Where jurors shall appear.

SECTION 43. The jurors summoned shall appear at the time and place named; and if any be excused by the county judge, or fail to attend, he shall direct other qualified disinterested persons to be forthwith summoned in their stead, until twelve be obtained. The county judge shall then administer to them an oath that they shall well and truly inquire into and determine the necessity for taking the lands mentioned in the resolution, and if found necessary, the damages occasioned thereby, and faithfully discharge their duties as jurors according to law.

Shall view premises.

SECTION 44. Under the direction of said county judge, the jury shall view the lands to be taken, and shall then sit before him to hear such competent evidence as shall be produced by any party, and for such purpose such county judge shall possess the same powers as a court in session with a jury, and, if there be necessity, may adjourn the sitting from day to day. The jury shall render a separate, unanimous verdict in writing, signed by it, in which it shall find whether it be necessary to take such lands, or any part thereof, for such purpose, describing such as it finds necessary to be taken; and if any be found necessary to be taken, then a verdict or appraisement of damages, specifying therein the damages to each owner, and separately the value of the land taken from each, and the damage otherwise sustained by each, by reason of the taking thereof; in estimating which, it shall deduct therefrom any special benefit, if any, to be enjoyed by each from such improvement, and a majority of such jury may render such verdict, or appraisement of damages, and shall sign the same. Any technical

error in such verdict may be immediately corrected with the consent of the jury, and shall be thereupon discharged, and its verdict filed by the county judge. In case the jury shall fail to find a verdict, another jury shall be then and there selected, and shall be summoned and sworn, and shall proceed in the same manner.

Appeal.

SECTION 45. Within ten days after such verdict, any land owner whose land has been found necessary to be taken, may appeal from the award of damages to him in such verdict, to the circuit court, by filing with such county judge a motion of appeal, specifying whether the appeal is from the whole award to him or a part, and if a part, what part, and therewith an undertaking, with two sufficient sureties, to be approved by the county judge, to pay all costs that may be awarded against such appellant on appeal, and paying said county judge for his return thereof. The city may likewise appeal from the award of damages to any owner by filing with such county judge a notice of appeal specifying whether the appeal is from the whole award to such owner, or a part, and if a part, what part, and paying said county judge for his return on said appeal. Any party not so appealing, shall be forever concluded by such verdict. Upon an appeal being taken, the county judge shall transmit to the clerk of the circuit court, within ten days, the notice of appeal and undertaking, and thereto annex a copy of all papers and proceedings before him, with his certificate thereof. He shall, after the time for appealing has expired, file with the city clerk, annexed together, all the original papers, including the verdict, with the certificate by him thereof, and that no appeal has been taken from such verdict, except as the facts are, which he shall briefly specify; and the city clerk shall record all proceedings.

Appeal to be tried by jury.

SECTION 46. Upon filing such transcript in the circuit court the appeal shall be considered an action pending in such court, and be so entered, the land owner as plaintiff, the city as defendant, and be subject to a change of place of trial, and appeal to the supreme court. The appeal shall be tried by a jury, unless waived, and costs shall be awarded against the appellant, if a more favorable verdict be not obtained than the one appealed from; otherwise against the respondent. Upon

entry of judgment the clerk of the circuit court shall transmit a certified copy thereof to the city clerk.

In case verdict is in favor of city.

SECTION 47. If the verdict of the jury shall determine that it is necessary to take such land, or any part thereof, the common council may, upon return thereof to the clerk, enact an ordinance according thereto, for laying out or widening any such street, public square, grounds or alleys, but shall not enter upon any such land therefor, until the owner is paid in full the damages awarded him by such verdict or appraisement, or such damages be set apart for him in the hands of the city treasurer, there permanently to remain subject to his order. At any time before causing any such land to be actually taken or put to public use, and before the rendition of a judgment in the circuit court for damages, the common council may discontinue all proceedings theretofore taken and the city shall, in such event, be liable for the costs only. All the costs of every such proceeding shall be paid by the city, except when it recovers costs in the circuit court or supreme court. All jurors and witnesses in proceeding under this act shall receive the same fees as jurors and witnesses in the circuit court.

Costs.

SECTION 48. For the payment of the expenses, including all damages and costs incurred for the taking of private property, and for making any improvement mentioned in this act, the common council of said city may, by resolution, levy and assess the whole or any part, not less than one-half of such expenses, as a tax upon such property, as it shall determine is specially benefited thereby, making therein a list thereof in which shall be described every lot or parcel of land so assessed, with the name of the owner thereof, if known, and the amount levied thereon set opposite. Such resolution, signed by the mayor and city clerk, shall be published once in each week for two weeks in a newspaper published in said city or in Brown county, and a notice therewith, that at a certain time therein stated, the said common council will meet at its usual places of meetings and hear all objections which may be made to said assessment or any part thereof. At the time so fixed the said common council shall meet and hear all such objections, and for that purpose may adjourn from day to day, and at the conclu-

sion of such hearing may modify such assessment in whole or in part, and shall adopt a resolution which shall be published in the same manner as ordinances of said city, levying said assessment as the same shall have been finally determined by said common council. The sums so assessed shall be a lien upon said lands upon which they are assessed from the date of the passage of said resolution; and the said several amounts shall be entered against said lot or lots in the tax roll, in addition to and as a part of all other city taxes therein levied on such land, to be collected therewith.

Highways.

Section 49. The common council shall have power, and is hereby authorized to vacate, in whole or in part, such highways, streets, alleys and public walks within the corporate limits of the city, as in its opinion the public interest may require to be vacated, or such, as in its opinion, are of no public utility; provided, however, the necessity of vacating any such highways, streets, alleys or public walks, or any part thereof, shall first be established by a verdict or report of a jury in like manner as is provided for laying out public squares, grounds and streets in this act.

Improvements.

SECTION 50. Opening, working, grading, graveling, re-planking, paving and re-paving of streets, to the center thereof, and the construction, reconstruction and rebuilding of sidewalks shall be chargeable to and payable by the lots fronting on such street, but no street or alley shall be opened, graded, graveled, planked or paved, or sidewalks constructed unless upon the petition of a majority of the resident owners of the lots or parts of lots chargeable with the expense thereof, or by a two-thirds vote of the aldermen elect. The cost and expense of establishing grades, surveying streets, alleys or gutters, and of cleaning out gutters, and of estimating work thereon in the execution of any public improvement, shall be chargeable to and payable by the city. Gutters may be ordered by the common council and built at the expense of the lots or parts of lots benefited thereby and fronting upon, or abutting to the street along which said gutter shall be constructed; provided, that in all cases where improvements or work of any kind are charged, by virtue of this section, upon lots as aforesaid, all such improvements

across streets, alleys and public grounds shall ... made and paid out of the street fund of the city.

Plans and specifications.

SECTION 51. Whenever the common council shall determine to make any of the improvements mentioned in the preceding section, it shall cause plans and specifications of such improvements to be filed with the city clerk for the inspection of all parties interested. Upon the filing of such plans and specifications the clerk shall immediately give one week's notice to the several owners and occupants of the lots or parts of lots chargeable with the expense of such improvements, to do the work according to the plans and specifications on file, within a time specified in such notice, which shall, in no case, be less than fifteen days after said one week's notice. If the improvement shall not be completed within the time specified, the clerk shall immediately advertise for proposals for doing the same. Such advertisement and preceding notice shall be published not less than one week in some paper in Brown county. It shall state the nature of the improvement, the time within which it must be completed, that plans and specifications thereof, may be seen at the clerk's office, and shall also state when and up to what time bids will be received. All bids shall be opened in a general or special meeting of the common council. The council may authorize the clerk or any appropriate committee of its body to enter into contract for the making and completion of the improvements. All contracts shall be let to the lowest reasonable responsible bidder. Upon the completion of the work done under contract, as provided in this section, and the acceptance thereof in writing by the street superintendent and committee on streets and bridges, the contractor shall be entitled to a certificate therefor, which [shall] be signed by the mayor and street superintendent, and countersigned by the city clerk, and which shall state the amount due for work done by such contractor, the nature thereof, and a description of the lot or parcel of land upon which the same is chargeable. Said certificate may be transferred by endorsement thereon; and if the amount thereof is not paid before the time of making out the annual assessment roll, the certificate may be filed with the city clerk, and amount thereof shall be assessed upon the said lots or land respectively, as a speci-

tax, and shall be collected for the benefit of the holder of said certificate, as other taxes on real estate are collected under this act. If notice to do the work required shall have been given as herein prescribed, no informality or error in the proceedings shall invalidate such assessment.

Sidewalks.

SECTION 52. Whenever a sidewalk shall become so out of repair as to require rebuilding, the common council may, by a two-thirds vote of the aldermen elect, so order, and the expense thereof shall be chargeable to lots and parts of lots fronting upon that part of the street or alley where such rebuilding of sidewalk has been ordered; and the same proceedings for the doing and completion of the work, and the payment therefor, shall be had as provided in section 51 of this act.

Streets.

SECTION 53. The expense of keeping streets and pavements, or other surface thereof in repair, shall be paid out of the street fund.

Expense of keeping sidewalks in repair.

SECTION 54. The expense of keeping sidewalks in repair, shall be chargeable to the lots or parts of lots abutting, and the duty of always keeping the sidewalks on, or adjacent to the lots and premises of any person in safe condition and good repair, is hereby expressly enjoined and imposed upon all owners or occupants of said lots and premises.

Unhealthy lots.

SECTION 55. The common council shall cause notice to be given to all owners or occupants of lots, which may be deemed injurious to health by reason of stagnant water remaining thereon, or other cause, if residents, personally, if non-residents, in the official paper, if there be such paper in said city, or in some paper printed in Brown county, for two weeks, to abate such nuisance by draining or filling such lot, within a reasonable time, therein to be specified, which shall, in no case be less than ten days; and if such nuisance shall not be abated or removed within the time specified, the council shall cause the same to be abated or removed at the expense of the property upon which the same may exist, and to that end the same proceedings shall be had as provided in section 51 of this act, except as herein otherwise provided.

Duties of street superintendent.

SECTION 56. It shall be the duty of the street superintendent to make frequent inspections of the streets, sidewalks, pavements, bridges, and other public ways in all parts of the city; and

whenever he shall find any defect or want of repair therein, he shall note the same in a book to be kept for that purpose. And whenever a sidewalk shall be out of repair, and shall so remain for the space of twenty-four hours, which, in his opinion, will not cost to exceed five dollars ($5) to repair, he shall be authorized, and it is hereby made his duty, to immediately repair the same: but if it shall, in the opinion of said street superintendent, cost to exceed five dollars ($5) to make said repair, and the said defect or want of repair shall, at the same time, in his opinion, be dangerous to public travel, he shall give written notice to the owner of the lot chargeable with such repair, if said owner shall be known to him and be a resident of said city, to repair said walk immediately, and if said owner shall not be known or shall not reside in said city, or if he shall not within twenty-four hours after the service of said notice, proceed to repair said walk, the street superintendent shall immediately repair said defect. If, in the opinion of said street superintendent, said defect or want of repair in any sidewalk shall not be immediately dangerous to public travel, he shall report said defect to the common council, which may, by resolution or ordinance, require said sidewalk to be repaired, but personal notice shall be given to the lot owner chargeable with said repair, if practicable, and if not practicable, then notice by publication for such time as said common council shall prescribe to make said repairs. Whenever the street superintendent shall have made any repairs as provided in this section, he shall make out an itemized bill of the costs thereof, specifying the lot or piece or parcel of land in front of which said work was done, verified by his oath, and shall deliver the same to the clerk, and the clerk shall forthwith present the same to the owner of such lot or piece or parcel of land, if a resident of the city of Nicolet and to be found, for payment; and if said owner shall refuse or neglect to pay the same for ten days, then the clerk shall report the fact to the common council, and the council shall thereupon levy a special tax upon said lot, piece or parcel of land to pay the same, and the said tax shall be put upon the tax roll and collected in the same manner as other taxes upon real estate are collected. In case the owner of such lot, piece or parcel of land does

not reside in the city of Nicolet, or cannot be found, the said clerk shall return said account to the common council with his certificate, stating the fact, and the same shall then be collected in the same manner as upon refusal of the owner to pay upon presentation of the account as aforesaid.

How work to be done.

SECTION 57. All work provided in this act shall be done under the supervision of the street superintendent, unless the common council shall otherwise direct. The street superintendent is authorized and empowered, and it shall be a part of his duties to contract with the lowest bidder for all material which the city may use in carrying out the provisions of this act.

Cleaning sidewalks.

SECTION 58. Streets, sidewalks and alleys shall be kept clean at the expense of the lots or parts adjacent thereto, and the common council may, by ordinance, adopt general rules and regulations relative thereto, requiring the owners or occupants of lots to keep such streets, sidewalks and alleys clean, and enforce the same by proper and reasonable penalties.

Certificates.

SECTION 59. Where work is ordered to be done at the expense of any lot or parcel of land, for which payment is to be made in certificates, as provided in section 51, of this act, no contractor or other person holding said certificate or certificates, shall receive any pay therefor from the city under any circumstances, until the tax levied for that purpose shall have been paid to the city or county.

Advertising.

SECTION 60. If, after having advertised for proposals to do the work, as provided by said section 51, no bids are received or filed, as required by said section, the common council, by a two-thirds vote of all the aldermen elect, may order the work to be done and paid for out of the general fund. The amount so paid shall be assessed against the respective lots or parcels of land, as provided by section 51, of this act, in case of unpaid certificates.

Sewers.

SECTION 61. The common council may, by an affirmative vote of two-thirds of the aldermen elect, order the construction or reconstruction of a sewer or sewers in said city, the expense of which shall be chargeable to the lots or parts of lots abutting upon said sewer, and in case a sewer shall be laid along the center of the street, the property on each side of said street shall bear its portion, or one-half of said expense. Such work or improvement shall be ordered, and contracts

therefor let, and the cost thereof paid, and notice given, the same and in the same manner as is provided in this act for the paving and re-paving, building and rebuilding of streets and sidewalks, and shall be under the supervision of the street superintendent, but the expense of repairs on sewers shall be paid out of the general fund.

Oath.

SECTION 62. The street superintendent shall take the oath of office prescribed for the aldermen, and shall, within five days from the date of his appointment, give a bond to the city, in the penal sum of one thousand dollars ($1,000), with good and sufficient sureties, to be approved by the council, conditioned for the faithful performance of the duties of his office, and for such other duties as may be required of him by the council, and for the proper expenditure of the money which may be collected or come in his hands by virtue of his office.

Shall have control of teams, tools, etc., belonging to city.

SECTION 63. The said superintendent shall have control and charge of all teams, wagons, tools and implements owned by said city, and used upon the streets of said city. He shall employ such help, teams, tools and implements as he may require for the performance of all work necessary to be done by him, and shall carry out the details of the general plan laid out for him by the common council and by the highway, street and bridge committee, he shall keep a record time book of the time of all persons and teams employed by him, where employed, and what materials used and where used, and the price to be paid for help, teams and materials; and no bill for services or materials furnished and used upon the streets shall be allowed by the common council, unless first certified to as correct by said superintendent, and in no event shall said street superintendent be interested in or own any teams employed by him in performing any work provided to be done by the provisions of this act; he shall also perform such other duties as the common council shall direct, relative to streets.

Maximum price paid to employes.

SECTION 64. The maximum price to be paid for employes and teams shall be fixed by the council, but the said superintendent shall have the selection and control of the employes and teams so used. It shall also be the duty of said superintendent to make to the common council an annual report of his doings, or oftener, if required by

it, giving in detail, where and what work has been done or performed, where and by whom performed, the amount by him certified to the respective persons who performed work, furnished teams, materials, tools and implements, together with such other information as the said council may direct or demand. Said respective reports shall have annexed thereto an affidavit, signed by and sworn to by said street superintendent, before some person authorized to administer oaths, stating that said reports are in substance and detail true, and for any false swearing in connection with said reports by said superitnendent, he shall be deemed guilty of perjury, and be subject to be punished as one guilty of perjury under the laws of this state.

Fire limits.

SECTION 65. The common council, for the purpose of guarding against the calamities of fire, shall have power to prescribe the limits within which wooden buildings or buildings of other material, that shall not be considered fire-proof shall be erected or repaired, and to direct that all and every building within the limits prescribed shall be made and constructed of fire-proof materials, and to prohibit the repairing or rebuilding of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent. of the value thereof, and to prescribe the manner of ascertaining such damages.

Chimneys, etc.

SECTION 66. The common council shall have power to prevent the dangerous construction and condition of chimneys, fire-places, hearths, stoves, stove-pipes, ovens, boilers and apparatus used in or about any building, and to cause the same to be removed or placed in a safe and secure condition when considered dangerous; to prevent the deposit of ashes in unsafe places; to regulate and prevent the carrying on of manufactures dangerous in causing or promoting fires; to compel the owners and occupants of buildings to have scuttles in the roofs, and stairs or ladders leading to the same; to authorize the mayor, aldermen, firewardens and other officers of the city, to keep away from the vicinity of a fire, all idle and suspected persons; and to compel all bystanders to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and generally to establish such regulations for the

prevention and extinguishment of fires as the common council may deem expedient.

Purchase of fire engines.

SECTION 67. The common council shall have full power to purchase fire engines, hose, and all other necessary fire apparatus and to authorize the formation of fire engine, hook and ladder, and hose companies, and to provide for the due and proper support and regulation of the same, and to order such companies to be disbanded, and their meetings to be prohibited, and their apparatus to be delivered. Each company shall have not more than thirty able-bodied men, between the ages of eighteen and fifty years, and may elect their own officers and form their own by-laws not inconsistent with the laws of this state, or the ordinances or regulations of said city, and shall be formed only by voluntary enlistments. Every active member of said company herewith authorized to be formed, shall be exempt from highway work, poll tax, and from serving on juries during the continuance of such membership, and any person having served for the term of ten years in either such company shall be forever thereafter exempt from poll tax and military and jury duty.

Chief engineer.

SECTION 68. The common council, at its first regular meeting in January in each year, shall elect one chief engineer, and one assistant engineer of the fire department, and one fire warden for each ward, who shall perform such duties as the common council shall prescribe, and who may, at any time, enter into or open any store-house or other building or enclosure, for the purpose of inspecting the same, and with a view to guard against fire. At the time of the election of said engineers, their compensation shall be fixed by the common council.

Fines.

SECTION 69. The net proceeds of all fines and penalties recovered and collected for breach of any ordinance, by-law or regulation made in pursuance of this act, relating to fire department, shall be paid by the city treasurer to the fire department.

Penalty for disobeying lawful order of chief engineer.

SECTION 70. When any person shall refuse to obey the lawful order of the chief engineer, or the assistant chief engineer, fire warden, or alderman of the city, the mayor or marshal at any time when said company or companies or any of them are on duty as a company, either at the time of a fire, fire alarm, parade or inspection, it shall be

lawful for the officer giving such order to arrest or direct orally the city marshal, constable or watchman, or any citizen to arrest such person and to confine him temporarily in any safe place until such companies return with their apparatus to their respective engine houses; and in the same manner such officers or any of them may arrest or direct the arrest and confinement of any person at such fire, who shall be intoxicated or disorderly, and any person who shall refuse to arrest or aid in such arresting, shall be liable to such penalty as the common council may prescribe, not exceeding twenty dollars ($20).

Sack company and its duties.

SECTION 71. The common council shall have power to organize a sack company, or to countenance any such company now organized, which shall be known by such name as it may select, and shall consist of not more than thirty members. Such company shall constitute a part of the fire department, and at fires shall be subject to the control of the engineers; the members of said company, either collectively or individually, are hereby authorized and empowered to act as a special police in and for the city of Nicolet, and are hereby vested with all the power and authority which now is or may hereafter be vested in any police officer of said city, and shall be entitled to all the rights and immunities of members of the fire department, except exemption from jury duty. At fires they shall take charge of all property which may be exposed or endangered, and shall, as far as may be in their power, preserve the same from injury or destruction. Such company may, from time to time, adopt such by-laws as they may deem necessary, not inconsistent with the laws of this state or the ordinances of said city. The members thereof shall not be entitled to any compensation for any services rendered in their official capacity. They shall, in case of riot or other disturbances of the peace, have access to all licensed places of amusement in the city, and shall perform such services as may be necessary for the peace and good order of the same.

Meeting of fire companies.

SECTION 72. There shall be a meeting of the different fire companies on the third Monday of April in each year, at such place as may be designated by the chief engineer, when the active members of said companies shall nominate and recommend to the common council for appoint-

ment, one treasurer and one secretary or clerk. The common council shall thereupon confirm or reject said nominations, and the person so appointed shall perform such duties as the common council shall prescribe. In case the common council shall reject such nominees, the said members shall, at a meeting held one week after such rejection, nominate other persons to hold such offices, which nomination shall also be subject to the approval of said council. The treasurer of the fire department shall receive and pay out all moneys belonging to said department, and shall secure the faithful performance of his duty by his bond to said city, in such penal sum as shall be required, and with sureties to be approved by the common council. Such moneys shall be only paid out on orders signed by the chief engineer or acting chief engineer, and countersigned by the clerk of said department.

Officers of company.

SECTION 73. There shall be elected by members of such company aforesaid, annually, at their annual meetings, a clerk or secretary, who shall, on or before the first Monday in May, in each year, return to the city clerk a list containing the name of each member of their respective companies; and when a member of either of said companies, shall cease to be a member thereof, by resignation, expulsion or otherwise, notice thereof shall be given to the city clerk.

Duty of clerk.

SECTION 74. The city clerk is hereby required to keep a record of the members of the several companies organized under this chapter, and such record shall consist of the returns made by the several clerks or secretaries, as above described; and no person shall be exempt from jury duty unless the name is entered on such list. In case any member shall, for any cause, cease to be a member of either of said companies, the clerk shall note that fact on the list thereof, and shall return to the clerk of the board of supervisors for the county of Brown, a list of all persons who are members of either or all of said companies, exempt from jury duty, or before the day now appointed, or which may hereafter be appointed, for the annual meeting for the said board, and said board shall not place the names of any such persons on the jury list for the ensuing year.

Audit accounts.

SECTION 75. The common council shall have power to audit, adjust, and allow all claims and

demands of every nature against the city, except such claims or demands as are payable out of the school fund.

In case of suits against city.

SECTION 76. No action shall hereafter be maintained by any person against the city of Nicolet, upon any claim or demand mentioned in the preceding section, other than a city bond or order, unless such person shall first have presented such claim or demand to the common council of said city. The determination of the common council disallowing in the whole, or in part, any such claim or demand, shall be final and conclusive, and a perpetual bar to any action in any court, founded on such claim or demand, unless an appeal shall be taken from the decision and determination of such common council, as hereinafter provided, or unless such council shall consent and agree to the institution and maintenance of an action by such claimant against the city; provided, however, that when the common council shall refuse or neglect to act upon any such claim or demand duly presented to it, this section shall not be so construed as to prevent the institution and maintenance of an action of said claimant against said city.

Appeal.

SECTION 77. When the claim or demand of any person against the city shall be disallowed, in whole or in part, by the common council, such person may appeal from the decision of such council to the circuit court for the county of Brown, by causing a written notice of such appeal to be served on the clerk of said city, within thirty days after the making of such decision, and executing a bond to said city, with sufficient surety, to be approved by said clerk, a county judge or court commissioner, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the court.

Notice to be given.

SECTION 78. The city clerk, upon such appeal being taken, shall immediately give notice thereof to the city attorney, or shall take such measures as by ordinance or resolution of said common council he may be required to do, and shall make out a brief return of the proceedings in the case before said council with its decision thereon, and shall file the same, together with the bond and all papers in the case in his possession, with the clerk of the circuit court for the county of

Brown, and such appeal shall be entered, tried and determined in the same manner as actions originally brought in said courts, and costs shall therein be awarded in like manner; provided, however, that whenever an appeal is taken from the allowance made by said common council upon any claim, and the recovery upon such appeal shall not exceed the amount allowed by said council, exclusive of interest upon such allowance, the appellant shall pay the costs, which shall be deducted from the amount of the recovery, and when the amount of costs exceeds the sum recovered, judgment shall be rendered against the appellant for the amount of such excess.

Claim must be verified.

SECTION 79. No claim or demand whatever shall be allowed by the common council, unless the same is verified by the owner thereof, or some person in his behalf.

Funds shall be under control of common council.

SECTION 80. All funds in the treasury, except school, state and county funds, shall be under the control of the common council, and shall be drawn out upon the order of the mayor and clerk, duly authorized by a vote of the common council, and all orders drawn upon the treasurer shall specify the purpose for which they were drawn, and shall be payable generally out of any funds in the treasury belonging to the city. City orders shall be receivable for all city taxes, except school and special taxes for bridges and school purposes, and except taxes levied for the payment of principal or interest of any outstanding bonds of said city or village of West De Pere, which shall be collected in money or in orders drawn upon such funds respectively; provided, that the amount or proceeds of all orders which shall be received in payment of taxes shall be credited to the several and respective funds on account of which such orders were issued. All orders shall be payable to the order of the person in whose favor they may be drawn, and shall be transferable by indorsement. No tax certificates shall be received in payment of taxes.

Tax for current expenses.

SECTION 81. The common council shall levy annually, to defray the current expenses of said city, a sum not exceeding ten (10) mills upon the dollar of the total assessed valuation of all taxable property in said city, and for all other purposes, except for schools and bridges, and the payment of principal and interest of outstanding bonds.

debts and obligations of said city, a sum not exceeding six (6) mills upon the dollar of the said valuation.

Regarding issuing of evidences of debt.

SECTION 82. The common council shall not have power to issue any bonds or other evidence of debt payable at a day subsequent to the date of the issue thereof, except in cases especially authorized by law, nor shall the common council issue in any one year orders upon the city treasurer to an amount greater than the amount of taxes which may be levied under the provisions of this act; provided, that whenever it shall be necessary to rebuild or repair bridges, a special tax may be levied for such purpose, not exceeding five thousand dollars ($5,000) in any one year; said taxes, when so levied, shall be collected at the same time as other city taxes are collected.

Special taxes may be levied.

SECTION 83. Special taxes may also be levied by the city council at any regular meeting, for the purpose of paying the interest or principal of any outstanding bonds now due or hereafter to become due, issued by the village of West De Pere or the city of Nicolet, or which may hereafter be issued by said city by authority of law; provided, however, no greater tax in any one year be levied than shall be necessary to pay the amount which will be due on such bonds at the time such tax shall be collectible by virtue of this act, or shall become due before the time appointed by law for assessing and levying the annual taxes. Said taxes when so levied shall be collectible at the same time as other city taxes are collected.

All property in city subject to taxation.

SECTION 84. All property in said city, real, personal and mixed, except such as may be exempt by the laws of the state, shall be subject to taxation for all purposes authorized by law, and the same shall be assessed annually by the assessor elected under this act. In making such assessments and his return thereon, and in making reassessments or assessing property omitted previous years, the said assessor shall have the same powers and subject to the same duties as town assessors, and shall in all things be governed by the general laws of this state in relation to the assessment of taxes, except so far as they may be altered by this act; provided, however, that the common council may prescribe the form of assessment rolls, and more fully define the duties of assessors and make such rules and regulations in

relation to revising, altering or adding to, such rolls as it may from time to time deem advisable.

Real estate exempt by law shall pay special taxes.

SECTION 85. Real estate exempt from taxation by the laws of this state shall be subject to special taxes for sidewalks, sewer and street improvements on the same.

Taxes a lien on property.

SECTION 86. All taxes and assessments, general or special, levied under this act, shall be and remain a lien upon the tenements upon which they may be assessed, from the time of the final completion of the assessment roll, and on all personal property of any person or body politic assessed for personal taxes from the date of the warrant for collection thereof, until such tax shall be paid, and no transfer of such real or personal property shall affect such lien.

Assessor required to return his assessment to board of review.

SECTION 87. The assessor shall complete and return his assessment roll to the board of review of said city, on or before the first Monday in August, each year. During the last week of the month of July in each year, the assessor shall attend at the chambers of the common council for the purpose of hearing the complaints of persons who may feel themselves aggrieved by such assessment, and shall make alterations and such amendments thereto, as justice and equity may require.

In cases of re-assessment.

SECTION 88. In all cases of the re-entry of real estate omitted from assessment for previous years, and in all cases where property shall be re-assessed, or re-assessable as provided by the general laws of this state, the common council shall, in addition to the taxes of the current year, levy and collect such taxes as such omitted lands ought properly to have paid, in case they had not been omitted, or such re-assessment had not been necessary. The city clerk of said city is hereby authorized and empowered to enter upon the tax roll of said city for the year 1883, in a separate column, as an additional tax, opposite each and every lot, tract, piece or parcel of land in said city, the amount of taxes thereon, which remain unpaid for the years 1881 and 1882 as returned to the county treasurer of Brown county by the treasurer of the village of West De Pere, and the same shall be collected by the treasurer of said city the same as other taxes upon the roll, and in case of non-payment, the same shall be returned to the county treasurer of Brown county, and be sold therefor the same as other property. All

amounts of money heretofore paid by any and all persons for taxes for said years of 1881 and 1882, upon each and every piece of property in said village of West De Pere, shall be in full for all taxes thereon for said years, and the said payments shall be a perpetual bar against any and all suits for the recovery of any and all sums of money paid therefor.

Board of review.

SECTION 89. The mayor, clerk and assessor shall constitute a board of review, and shall meet at the chambers of the common council on the first Monday of August in each year, and shall proceed in all respects as town boards are required by law to proceed.

Levy of percentage.

SECTION 90. After the corrections and revisions of the assessment by the board of review the same shall be filed with the city clerk, who shall record all changes made therein by said board; the common council shall thereupon, by resolution, levy such sum or sums of money, not exceeding the authorized percentage as may be sufficient for the several purposes for which taxes are herein authorized to be levied, particularly specifying the purposes for which the same are levied.

City clerk shall carry out tax roll.

SECTION 91. The city clerk, on receiving the corrected assessment roll, and a certificate of the amount of state, county and school tax apportioned to said city, shall calculate and carry out the total amount of such taxes, together with all the city and other local taxes, setting down opposite to the several sums set down, as the valuation of real and personal property, the respective sums assessed as taxes thereon, in dollars and cents, rejecting the fraction of a cent when less than one-half, otherwise reckoning said fraction as a cent.

Duplicate copies shall be made by clerk.

SECTION 92. Upon completion of said roll, the clerk shall make a duplicate copy thereof, and deliver the same to the city treasurer, on or before the second Monday in December, each year. To the roll so delivered shall be annexed a warrant under the hand of the clerk and the corporate seal of the city, which warrant shall be substantially in the form prescribed by the general laws of this state, to be delivered to town treasurers.

Roll shall be prima facie evidence.

SECTION 93. The said assessment roll and warrant thereto attached, shall be *prima facie* evidence in all courts that the lands and persons therein

named were subject to taxation, and that the assessment was just and equal.

Reasons for changing tax roll specified.

SECTION 94. After the assessment roll is completed and placed in the hands of the city treasurer for collection, it shall not be lawful for the common council to remit, annul, or cancel any tax charged against any real or personal property, except in the following specified cases:

1st. When a clerical error has been made in description or transfer of the property from the original assessment lists or books to the tax roll, or in the extension of the tax.

2d. When improvements, by the erection of buildings, have been assessed on lots or lands when none had been made at the time fixed by law for making the assessments.

3d. When the tax is manifestly illegal and void by reason of the exemption of the property from taxation by law.

Duty of treasurer.

SECTION 95. The city treasurer upon the receipt of such duplicate copy of the tax list, shall proceed to collect the same in like manner, and shall have like powers and be subject to like requirements, liabilities and restrictions as town treasurers.

Time list shall be returned to county treasurer.

SECTION 96. On or before the fifteenth day of February of each year, unless the time be extended as provided by law, the city treasurer shall make out and return to the treasurer of Brown county, a list of all lands, lots and personal property upon which taxes have not been paid, and shall add to said taxes remaining unpaid five (5) per cent. upon all delinquent lands or lots so returned by the city treasurer to the treasurer of Brown county, and shall make return of said taxes with said five per cent. added, and shall also settle with and pay over all moneys properly payable to said county treasurer in like manner as now is or may hereafter be required of town treasurers; and all the provisions of the general laws of this state shall extend to and may be enforced to collect any delinquent personal property tax of whatever year now due to said city or village of West De Pere.

County treasurer shall sell all delinquent lands.

SECTION 97. The county treasurer shall sell all delinquent lands and lots returned from the city of Nicolet, at the same time and in the same manner as other delinquent lands are sold in said county.

SECTION 98. No error or informality in the proceedings of any of the officers in assessing property, levying or collecting taxes, or making return of unpaid taxes, not affecting the substantial justice of the tax itself, shall invalidate or vitiate, or anywise affect the validity of the assessment or tax. Error does not invalidate.

SECTION 99. All the general laws of this state which now or may hereafter be in force, relative to the assessment and collection of taxes, shall be in force in said city, except as otherwise herein specially provided. The city treasurer shall proceed to enforce the collection of all taxes and assessments in the manner provided by law for the collection of taxes by town treasurers; except as herein otherwise provided. General laws in regard to taxes to be in force.

SECTION 100. All actions brought to recover any penalty or forfeiture under this act, or the ordinances, by-laws, or police or health regulations made in pursuance thereof, shall be brought in the corporate name of the city. It shall be lawful to declare generally in debt for such penalty or forfeiture, stating the section of this act, or the section of the ordinance, by-law or regulation under which the penalty or forfeiture is claimed, and to give the special matter in evidence under it. Actions shall be brought in corporate name.

SECTION 101. In all prosecutions for any violation of any of the provisions of this act, or any by-law, ordinance or regulation, the first process shall be a summons, unless oath be made for a warrant, as in cases of tort before justices of the peace, under general statutes of the state for the time being. Prosecutions, how commenced.

SECTION 102. When the action is commenced by summons, such summons may be substantially in the following form: Form of summons.

COUNTY OF BROWN, } ss.
City of Nicolet. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Nicolet:

You are hereby commanded to summon A. B., if he shall be found within your county, to appear before the undersigned, ——— ———, in and for said city, at his office in said city, on the ——— day of ———, 18—, at — o'clock in the ——— noon, to answer to the city of Nicolet to

the damage to said city, two hundred dollars ($200) or under.

Given under my hand at the said city this —— day of ———, 18—.

C——— D———.

When made returnable.

SECTION 103. Such summons shall be made returnable and be served in the same manner as is now, or hereafter may be prescribed by the laws of the state for the commencement of actions before justices of the peace by summons; and all proceedings in the action, except as hereafter provided, shall be governed by the laws of the state for the time being, relative to actions commenced by summons and triable before justices of the peace.

SECTION 104. When the actions are commenced by summons the complaint may be substantially in the following form:

Form of complaint.

CITY OF NICOLET against A——— B———. } In ——— Court.

Before C——— D———.

The plaintiff complains against the defendant, for that the defendant on the ——— day of ———, 18—, at the said city, did violate (section ——, of this act, or section ———, of an ordinance or by-law, or regulation of said city, describing it by its title), which said section ——— is now in force. By reason of such violation an action hath accrued to the city of Nicolet, to recover of the defendant the sum of ——— dollars, wherefore the plaintiff demands judgment against the defendant for the sum aforesaid, besides the costs of this action.

How made.

SECTION 105. In all cases where oath is made for a warrant, the complaint shall be made on oath, and no other affidavit shall be necessary, which last mentioned complaint may be substantially in the following form:

Form of complaint.

THE CITY OF NICOLET against A. B. } In ——— Court.

Before C. D.

County of Brown — ss.

———— ————, being duly sworn, complains on oath to C. D., ———— ————, in and for the city of Nicolet, in said county, that A. B., on the — —

lay of ———, 18—, at said city, did violate section ——— of this act, or section ——— of an ordinance or by-law or regulation of said city describing it by its title), which said ——— is now in force, as this complainant verily believes, and prays that said A. B. may be arrested and held to answer to said city of Nicolet therefor.

Sworn and subscribed to, this ——— day of ———, 18—, before me.

———— ————.

What to contain.

It shall be sufficient to give the number of the section of this act, or the section of the ordinance, by-law or regulation violated, or particular part thereof in the foregoing forms of complaint, and said complaint may be sworn to before any officer authorized to administer oaths. Upon the filing of such complaint with the justice of the peace, he shall issue a warrant substantially in the following form:

Form of warrant.

COUNTY OF BROWN, } ss.
City of Nicolet. }

The state of Wisconsin, to the sheriff or any constable of said county, or to the marshal of the city of Nicolet, greeting:

Whereas, ——— ———, has this day complained to me, in writing, on oath, that A. B., on the ——— day of ———, 18—, at said city, did violate (section ——— of this act, or section ———, of an ordinance or by-law or regulation of said city, describing it by its title), which said section is now in full force, as the complainant believes; therefore, you are commanded to arrest the body of said A. B., and bring him before me forthwith to answer to the city of Nicolet on the complaint aforesaid.

C. D., ———.

How justice shall proceed.

Upon the return of the warrant the justice may proceed summarily with the case, unless it be adjourned, by consent or for cause. If the case be adjourned, the defendant, if required by the court so to do, shall recognize with security to be approved by the court, for his or their appearance in such sum as the court shall direct, or in default thereof, may be put in charge of the officer who made the arrest, or be committed to the common jail of Brown county. The complaint as aforesaid shall be the only complaint required, and the answer of not guilty shall put in issue all subject matter embraced in the action.

Printed copy to be evidence.

SECTION 106. A printed copy of an ordinance, by-law, or regulation, passed by the common council, and published in some newspaper in the county, or in pamphlet or book form, purporting to be published by authority of the common council, or by the city clerk posting notices in three public places in the city, or certified by the clerk of said city to have been so published, shall be *prima facie* evidence of its passage and publication, and shall be received in evidence on the trial of all cases cognizable before any court of this state.

Witnesses and jurors shall attend without the prepayment of fees.

SECTION 107. Witnesses and jurors shall attend before the court in all city and criminal suits, without the payment of fees in advance, or a tender thereof, upon process duly served, and in default thereof their attendance may be compelled by attachment.

City prosecutions, how commenced.

SECTION 108. In city prosecutions the findings of the court shall be either guilty or not guilty. If guilty, the court shall render judgment thereon against the defendant for the fine, penalty or forfeiture prescribed in this act, or in the ordinance, by-law or regulation for the violation of which the person or persons shall have been adjudged guilty, and for costs of suit; but if not guilty, the costs of suit shall be charged against the city. Upon the rendition of judgment against the defendant, and the non-payment thereof, the justice shall forthwith issue execution as in other cases of tort, in case the action was commenced by summons, or a commitment in case it was commenced by warrant, and shall in either case determine and enter upon his docket the length of time the defendant shall be imprisoned for non-payment, which shall, in no case, exceed six months, and also insert such time in the execution or commitment.

Form of execution.

COUNTY OF BROWN, } ss.
City of Nicolet. }

The state of Wisconsin, to the sheriff, or any constable of said county, or to the marshal of said city, and to the keeper of the common jail of said county, greeting:

Whereas, the said city of Nicolet, on the —— day of ——, 18—, recovered a judgment before the undersigned, —— ——, in and for said city against —— ——, for the sum of —— dollars

together with —— dollars and — cents, costs of suit, for the violation of (section —— of this act, or section of an ordinance or by-law, or regulation of said city, describing it by its title); you are hereby commanded to levy distress of the goods and chattels of the said —— ———, excepting such as the law exempts, and make sale thereof according to law to the amount of said sums, together with your fees and twenty-five (25) cents for this writ, and the same return to me in thirty days; and for want of such goods and chattels whereon to levy, to take the body of the said —— ———, and him convey and deliver to the keeper of the common jail in Brown county; and said keeper is hereby commanded to receive and keep in custody in said jail the said —— —— — for the term of ———, unless the said judgment, together with all the costs and fees are sooner paid, or he be discharged by due course of law.

Given under my hand this —— day of ———, 18—. C. D.

Form of commitment.

The form of the commitment shall be substantially the same as that of the execution, omitting all that relates to the levy and sale and return of writ.

Defendant may appeal from judgment.

SECTION 109. Any defendant, feeling aggrieved by the judgment of a justice of the peace in any suit commenced under the provisions of this act, by summons or warrant, may appeal from such judgment to the circuit court of the county of Brown, in the manner provided by the general laws of this state for appeals from justices' courts in criminal cases. The justice from whose judgment an appeal shall be taken, shall make a special return of the proceedings had before him, and shall forthwith cause the summons or warrant and return together with the proceedings, and a copy of the entries on his docket in the action, together with the recognizance to be filed in the office of the clerk of said court; and the city may appeal from any such judgment, as in other cases before justices of the peace.

Appeal shall stand for trial.

SECTION 110. Said appeal shall stand for trial by jury, unless a jury be waived in the manner provided by law, in said circuit court, at the next term thereof after the day of judgment of the justice shall be rendered.

Infliction of penalty.

SECTION 111. If the judgment of the justice shall be affirmed, or if upon the trial the defend-

ant shall be convicted, the court shall inflict th penalty provided by this act, or the ordinanc resolution, by-law or regulation under which h or they are prosecuted, and enter judgmen against him or them and their sureties for sai penalty, together with the costs in both courts and enforce the same by execution as in actions of tort.

Shall not work incompetency.

SECTION 112. No person shall be an [incompetent] judge, justice, witness or juror, by reason o his being an inhabitant of said city, in any pro ceeding or action in which the city shall be a party in interest.

General laws for preservation of bridges, etc.

SECTION 113. The general laws for the preservation of bridges, and the punishment provided by such laws for wilful and malicious injuries done thereto, are hereby extended to and shall include all of the bridges erected or owned by said city, over the Fox river and Ashwaubenon creek, and shall apply to any wilful or malicious damage which may be done to either of them by any person or persons whatever; and the common council of said city may, from time to time, make such by-laws or ordinances as it may deem necessary for the preservation of such bridges, and enforce the same by adequate penalties. In case of any damage done to any of said bridges by any vessel or water craft, or by the master or any person in command thereof, such vessel or water craft may be proceeded against by the said city under the law to provide for the collection of demands against boats and vessels which does now or may hereafter exist.

How service against city is made.

SECTION 114. When any suit or action shall be commenced against said city, the service thereof may be made by leaving a copy of the summons with the mayor or clerk of said city, and it shall be the duty of the said mayor or clerk so served forthwith to inform the city attorney thereof, or to take proceedings as by ordinance or resolution of said council may be in such case provided. Judgments against said city shall be collected in the same manner as judgments against towns.

Penalties to be paid into city treasury.

SECTION 115. All penalties and forfeitures recovered and collected under and by virtue of this act, shall be paid into the city treasury for the use and benefit of said city, except as provided in sections 69, 70, 71, 72, 73, 74 and 75 of this act.

SECTION 116. No execution or attachment

any legal proceedings shall be issued or levied upon or against any property belonging to the city of Nicolet. Nor shall private property in said city be subject to levy or seizure upon attachment or execution, issued to collect or satisfy any contract, debt, obligation, demand or judgment against said city. City property exempt from execution.

SECTION 117. Every member of the common council of the city of Nicolet, who shall directly or indirectly vote to himself or knowingly to any other person, any sum of money for any other purpose whatever, in violation of the city charter or any amendment thereto, or shall ask or receive any compensation for doing any official act, except as inspectors of elections, members of the board of registry, and as members of the board of review; any member of the common council or other city officer who shall be directly or indirectly interested in any contract made with or in behalf of the city, and any member of said council or other city officer who shall directly or indirectly purchase or be interested in the purchase of any city order or city indebtedness for less than the full amount thereof, shall be deemed guilty of a misdemeanor in office, and may be prosecuted by complaint before any justice of the peace in the city, and upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars ($100), nor less than twenty dollars ($20), or by imprisonment in the county jail not more than thirty days, nor less than ten days, or both, at the discretion of the court. Penalty for collusion in office.

SECTION 118. All contracts for work ordered by the common council shall be let to the lowest reasonable responsible bidder, who shall have complied with the requirements hereinafter set forth. All bids or proposals shall be sealed and directed to the common council, and shall be accompanied with a bond to the city of Nicolet in the penal sum of one-third the city's estimate of the cost of the work, which bond shall be signed by the bidder and by a responsible surety, who shall make affidavit that he is worth the penal sum of such bond, over and above all his debts, liabilities and exemptions; such bond shall be conditional that such bidder will execute a contract at such time as the common council shall require, with satisfactory sureties, to perform the work specified; said bond may be prosecuted in the name of the Work to be let to lowest bidder.

city, and judgment recovered thereon for the full amount of the penalty thereof as liquidated damages, in any court having jurisdiction of the action; provided, that the penal sum of any bond in this section required to accompany a bid, need in no case exceed the sum of one hundred dollars ($100).

Two or more sureties required.

SECTION 119. No contract shall be entered into by the city unless the same shall be executed by two or more sureties for the contractors, guaranteeing to the satisfaction and approval of the proper authorities the performance of such contract by the contractors, each of which sureties shall make an affidavit indorsed on or attached to such contract, that he is worth the estimated amount of money to be paid on such contract, over and above all his debts, liabilities and exemptions. Whenever the lowest bid for any work to be let by said city shall appear to the said council to be unreasonably high, the said council is authorized to reject all bids therefor, and to relet the work anew.

Rules governing contracts in digging streets, etc.

SECTION 120. Whenever the city shall let any work or improvement which shall require the digging up, use or occupancy of any street, alley, highway or public ground within said city, there shall be inserted in the contract therefor substantial covenants requiring such contractors during the night time, and during all times when work thereon is suspended, to put up and maintain such barriers and lights as will effectually prevent the happening of any accident in consequence of such digging up, use or occupancy of said street, alley, highway or other public grounds, for which the city might be liable, and also such other covenants and conditions as experience has proved or may prove necessary to save the city harmless from damages; and it shall also be provided in such contracts that the party contracting with the city shall be liable to said city for all damages occasioned by the digging up, use or occupancy of the street, alley, highway or public grounds, or which may result therefrom, or which may result from the carelessness of such contractor, his agents, employes or workmen.

City shall be rendered harmless.

SECTION 121. Whenever any work or improvement shall be let by contract to any person or persons, firm or corporation, covenants shall be inserted in such contract, binding such person or

persons, firm or corporation, and the sureties, to save and indemnify and keep harmless the said city against all liabilities, judgments, costs and expenses which may in any wise come against said city in consequence of the granting of such contract, or which may, in anywise, result from the carelessness or neglect of such person or persons, firm or corporation, or his or its agents, employes or workmen, in any respect whatever.

No moneys to be appropriated unless authorized.

SECTION 122. No moneys shall be appropriated for any purpose whatever, except such as are expressly authorized by this act.

Penalties may be remitted.

SECTION 123. No penalty or judgment recovered in favor of the city shall be remitted or discharged, except by a two-thirds vote of the aldermen elect. The common council may, by an affirmative vote of two-thirds of the aldermen elect, the mayor concurring, grant pardons or commutations, after conviction, for all offenses against the ordinances of the city, upon such conditions as it may deem proper.

New and accurate surveys.

SECTION 124. The common council may, at any time, cause a new and accurate survey to be made of the line, and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, and may cause to be established such permanent landmarks as it may deem necessary, and to cause an accurate plat or plats thereof to be made, and certified to by the surveyor, which shall be filed in the office of the city clerk.

Prima facie evidence.

SECTION 125. The surveys and landmarks so made and established shall be *prima facie* evidence of the lines and boundaries of all streets, alleys, sidewalks, public grounds, wharves and blocks, in all cases in which they shall be drawn into controversy in all courts in this state.

Regarding grades of streets, etc.

SECTION 126. The common council may, at such time as it may deem proper, establish the grades of all the streets, alleys and sidewalks in said city or any or either of them, and shall cause accurate profiles thereof to be made, which shall be filed in the office of the city clerk; and should the grade so established be at any time hereafter altered, all damages, costs, and charges arising therefrom shall be paid by the city to the owners of lots or parcels of land, or tenements which may be affected or injured in consequence of the alteration of such grade.

SECTION 127. The said city may have, purchase

Hold real estate.

or hold real and personal estate sufficient for the convenience of the inhabitants thereof, and may sell and convey the same; and the same, while owned, occupied or held by said city, shall be exempt from taxation.

Deeds, how made.

SECTION 128. When the city of Nicolet deeds or leases any real estate, or any interest therein owned by said city, the party of the first part shall be the city of Nicolet, and the person or persons authorized to execute such deed or lease need not be named in the body thereof.

Mayor authorized to convey.

SECTION 129. The mayor of said city is hereby authorized, when the common council shall, by a two-thirds vote, so direct, and shall, by ordinance or resolution describe the real estate and interest to be conveyed, to execute a deed or lease of such real estate or interest therein belonging to said city. The said deed or lease shall be signed by the mayor of the city and countersigned by the city clerk, and sealed with the corporate seal of said city, and duly witnessed and acknowledged, as is provided for the execution of deeds and conveyances.

City clerk shall certify.

SECTION 130. When any such deed or lease is so executed, the city clerk shall attach to such deed or lease a true copy, by him duly certified, of the ordinance or resolution aforesaid, and the same shall be recorded by the register of deeds, with the said deed or lease and such copy so attached, and the record thereof shall, in all courts of this state, be *prima facie* evidence of the authority of the mayor to make and execute such deed or lease.

Failure to hold election does not absolve city.

SECTION 131. If any election by the people or common council shall, for any cause, not be held at the time or in the manner herein prescribed, or if the common council shall fail to organize as herein provided, it shall not be considered reason for arresting, suspending or abolishing said corporation; but such election or organization may be had at any subsequent day, by order of the mayor; and if any of the duties enjoined by this act, or the ordinances or by-laws or regulations of said city, to be done by any officer at any specified time, and the same are not then done or performed, the common council may appoint another time at which the said act may be done and performed.

Not repealed.

SECTION 132. No general law contravening the provisions of this act, shall be considered as re-

pealing, amending or modifying the same, unless such purpose is expressly set forth in such law.

Bridges, etc., to be under corporate authority.

SECTION 133. All bridges belonging to the city of Nicolet shall be under the jurisdiction of the corporate authorities thereof.

Relief of poor.

SECTION 134. The laws of the state for the relief and support of the poor in towns shall apply to said city of Nicolet, and the common council shall appoint at least three of its number, who shall organize and act as a poor board, with the mayor as president thereof; such board shall be governed by such rules as the common council may prescribe, and in respect to the poor of the city shall have the same powers, be subject to the same liabilities and governed by the same laws as supervisors of towns.

Salaries shall be paid monthly.

SECTION 135. The salaries of all city officers of said city shall be paid monthly.

No member shall be elected, except as provided.

SECTION 136. No member of the common council shall be elected or appointed to any office, agency or place of public trust or profit by the council, except as provided by this act; neither shall the common council sell or authorize the sale of any city order or certificate of indebtedness for the purpose of raising money for the payment of any debt, for less than the amount expressed upon the face thereof.

Salary of mayor, etc.

SECTION 137. No compensation or salary shall be paid to the mayor or any alderman of said city except as provided in section 121 of this act.

Railroad companies required to remove fences, etc.

SECTION 138. In all cases where any street has heretofore been laid out or extended, or shall be hereafter laid out or extended, to the line of any railroad right of way in said city of Nicolet, and on both sides thereof, it shall be the duty of the railroad company owning or operating such railroad, to remove its fences from the line of such street on either side of such right of way, and to plank its track at such crossing and make and keep the same accessible and passable for teams at all times.

Respecting school district No. 1.

SECTION 139. School district number one, heretofore embracing the village of West De Pere, and the management of all school matters in connection with such district, shall remain in like officers, and be conducted in the same manner as heretofore, under the charter of said village of West De Pere, and taxes for maintaining said

schools shall be raised and disbursed in like manner as heretofore.

Old ordinances to remain in force.

SECTION 140. All ordinances and regulations now in force in the village of West De Pere, and not inconsistent with this act, shall remain in force until altered, modified or repealed by the common council, after this act shall take effect.

City shall assume the village responsibilities.

SECTION 141. All actions, rights and penalties, fines and forfeitures, in suits or otherwise, which have arisen or accumulated under the several ordinances or acts incorporating West De Pere village, shall be vested in and prosecuted by the corporation hereby created.

All village property to go over to city.

SECTION 142. All moneys, property, effects and credits belonging to the present village of West De Pere shall belong to the city of Nicolet, and shall be transferred to the proper officers of said city by the persons in charge of the same as soon as such officers shall be elected and qualified.

Lawful claims, debts, etc., to be assumed by city.

SECTION 143. Any lawful debt, claim, demand or right of action against the present village of West De Pere shall be and become a lawful debt, claim, demand or right of action against the city of Nicolet.

Plat of city required to be made.

SECTION 144. The common council of said city is hereby authorized and empowered to cause to be made by some competent person a plat of all pieces or parcels of land within said city, which are not embraced and described in any of the recorded plats of land in said city, which plat shall plainly define the boundary of each tract or lot of land designated thereon, and each tract or lot of land embraced in said plat, shall be designated by a number placed thereon. The said plat when completed, shall be certified to by the person making the same, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds, by the mayor and clerk of said city, and when so certified and acknowledged shall be recorded in the office of the register of deeds of Brown county.

Name of plat.

SECTION 145. The said plat shall be called and known as "Assessors' sub-division of lands in the city of Nicolet."

Repealing section.

SECTION 146. All acts and parts of acts inconsistent with and contravening this act are hereby repealed; but nothing in this act contained shall be construed to repeal, alter or amend the following named acts or either of them, but the same

shall continue in force; the said city of Nicolet succeeding to all the rights and privileges conferred therein upon the village of West De Pere, to-wit: Nothing in this [act] contained shall be construed to repeal, alter or amend the following named acts or either of them: Chapter 409 of the general laws of this state, passed in the year 1864, entitled "an act to authorize the village of De Pere and the town of Lawrence to purchase or lease a certain bridge across Fox river." Chapter 157, of the general laws of this state, passed in the year 1880, entitled "an act to amend chapter 409, of the general laws of 1864, entitled an act to authorize the village of De Pere and the town of Lawrence to purchase or lease a certain bridge across Fox river." Chapter 245, of the general laws of this state, passed in the year 1881, entitled "an act relating to the building of bridges by villages situated upon the opposite sides of a river or other body of water in this state, and authorizing villages to borrow money for the purpose of building, purchasing or leasing bridges, and making section 1322 of the revised statutes applicable to the purposes and objects of this act."

May make a loan.

SECTION 147. The city council is hereby authorized and empowered, and it shall be lawful and legal for it to effect a loan and borrow a sum of money, not to exceed five thousand dollars ($5,000), for the purpose of taking up two thousand dollars ($2,000) school district bonds, and twelve hundred and seventy dollars ($1270) bridge bonds, and seventeen hundred and thirty dollars ($1730) to apply to general fund of the city for year 1883, with interest, not to exceed seven (7) per cent. per annum, and to be paid on or before April 1, 1884. This section shall only apply to the present year, 1883.

Public act.

SECTION 148. This is hereby declared a public act, and shall be liberally construed in all courts in this state.

SECTION 149. This act shall take effect and be in force from and after its passage and publication.

Approved April 4, 1883.

[No. 473, A.] [Published April 14, 1883.]

CHAPTER 356.

AN ACT to amend section 9, of sub-chapter 14, of chapter 159, of the laws of 1878, entitled "An act to revise the charter of the city of Chippewa Falls."

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Section 9, of sub-chapter 14, of chapter 159, of the laws of 1878, is hereby amended by adding thereto the following: "Unless said board selects some other person to act as such secretary."

SECTION 2. This act shall be in force from and after its passage and publication.

Approved April 4, 1883.

CERTIFICATE.

STATE OF WISCONSIN, } ss.
Department of State. }

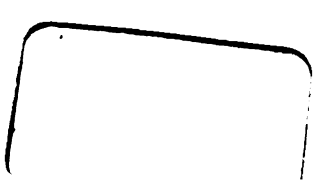
I, ERNST G. TIMME, Secretary of State, of the state of Wisconsin, do hereby certify that the foregoing copies of city charters and their amendments have been compared by me with the original enrolled acts, deposited in this office, and that they appear correctly printed.

In testimony whereof, I have hereunto set my hand and affixed the lesser seal of state. [L. S.] at the capitol, in the city of Madison, this 15th day of August, A. D. 1883.

ERNST G. TIMME,
Secretary of State.

INDEX.

	Chap.	Page.
Ahnapee, amendment	71	118
Ahnapee, amendment	247	858
Baraboo, amendment	53	116
Black River Falls, incorporated	4	4
Chilton, amendment	66	117
Chippewa Falls, amendment	356	1070
Columbus, revised	181	577
De Pere, incorporated	174	441
Eau Claire, amendment	149	295
Edgerton, incorporated	86	222
Edgerton, amendment	176	540
Fond du Lac, revised	152	353
Grand Rapids, amendment	7	110
Green Bay, amendment	2	3
Hartford, incorporated	80	138
Janesville, amendment	78	136
Janesville, amendment	350	1010
Kewaunee, incorporated	252	859
Lake Geneva, incorporated	182	638
La Crosse, amendment	212	854
La Crosse, amendment	217	855
La Crosse, amendment	339	970
Mauston, incorporated	177	540
Marshfield, incorporated	280	893
Menomonie, revised	84	171
Merrill, incorporated	5	60
Merrill, amendment	191	847
Milwaukee, amendment	8	111
Milwaukee, amendment	210	852
Milwaukee, amendment	307	946
Milwaukee, amendment	308	947
Milwaukee, amendment	310	948
Monroe, amendment	128	257
Neenah, revised	184	773
Neillsville, amendment	312	955
Nicolet, incorporated	351	1016
Oconto, amendment	343	1007
Oshkosh, revised	183	687

	Chap.	Page.
Portage, amendment	23	112
Racine, amendment	77	118
Racine, amendment	246	857
Ripon, amendment	106	256
Seymour, amendment	98	255
Shawano, amendment	323	968
Sparta, incorporated	175	488
Stevens Point, amendment	269	888
Sturgeon Bay, incorporated	341	970
Tomah, incorporated	134	260
Two Rivers, amendment	311	950
Wausau, revised	151	296

11254